



ZONING BOARD OF APPEALS
RICHARD D. CARNEY MUNICIPAL OFFICE BUILDING
100 MAPLE AVENUE
SHREWSBURY, MASSACHUSETTS 01545-5398

February 5, 2003

PUBLIC HEARING: Andrew and Rebecca Thompson, 22 Millwood Drive, Shrewsbury.

PURPOSE: To hear the appeal of Andrew and Rebecca Thompson, 22 Millwood Drive, Shrewsbury, MA, for a variance to the Town of Shrewsbury Zoning Bylaw, Section VII, Table II, Minimum Rear Yard Requirement, Residence B-1 District, to allow the construction of an addition 28 ft. from the rear lot line of property located at 22 Millwood Drive. The subject premises is described on the Shrewsbury Assessor's Tax Plate 26 as Plot 94.

PRESENT: Anthony M. Salerno, Chairman, Paul M. George, Martha P. Deering, Melvin P. Gordon, Ronald I Rosen and Ronald S. Alarie, Building Inspector.

Mr. Salerno opened the hearing by reading the advertisement as it appeared in the Worcester Telegram on January 28, 2002 and January 28, 2002.

Mr. Salerno: Would you identify yourself and make your presentation.

Mrs. Thompson: Yes, my name is Rebecca Thompson. I'm sorry, but my husband is picking my son up from the ski club at the high school and they're obviously late. I did a visual of what is now on our house and what it will look like from my neighbor who also had the same construction done. We just want to go out an extra 9 ft. We already have an existing porch and we want to come out another 9 ft. to make it a total of 16 ft. We have a contractor we've already agreed with. His name is Al Lapriore. He has done the construction on this particular house that's on the other street. It's basically the exact same thing that we want to do. We're just removing an existing porch off of the back and bringing it out and making it look much nicer with a foundation and a door leading out from the foundation. May I present this to you?

Mr. Salerno: Certainly, but I might suggest, ma'am, that the board has had a chance to see that from here. You might just want to turn it around and set it up so they could see it.

Mrs. Thompson: This is us now. This is the existing porch. It's 7 ft. out and 22 ft. long. We would like to make it look like this. This is 22 ft. long and it comes out 16 ft. So, we're asking for another 9 ft. from our neighbors. This is what it is and this is what it will be, hopefully.

Mr. George: So, that section will be stairs?

Mrs. Thompson: That will be part of the deck. It'll come out like this. It will look like this. We have a garage. This is a privacy area. There's the tip of the garage. What we want to do is go out to make it look like this but it will stay within the garage limits.

Ms. Deering: This is just going to be used as an enclosed porch.

Mrs. Thompson: It's more like a family room. This is a porch now. We would like to make it into a family room. When we bought the house, our son was 16 months and our other one had not been born. They're 15 and 14 and we need more room rather than having to move out of town.

Mr. Gordon: Is this going to have a cellar?

Mrs. Thompson: Yes, it will have a foundation that'll attach to the back of the cellar and a walkout door.

Ms. Deering: So, in the foundation, there will be an opening into the current cellar?

Mrs. Thompson: Yes, it'll look like that. It looks like this now. There's our door.

Ms. Deering: But, I mean the new foundation is going to have an opening into the current foundation?

Mrs. Thompson: Into the current foundation, yes. Here are my husband and son, back from skiing. Does anybody want to see this again?

Mr. Salerno: Okay. Are there any board members that have any questions for Mrs. Thompson?

Mr. Gordon: Can you tell us what you think the hardship is?

Mrs. Thompson: I think the hardship is the fact that it is a small Cape and what we want to do is add this room so that we would have more room to be able to have our kids' friends over. When we stand in our kitchen as it is now, which is right off of this room, we don't even have room for a kitchen table. One is 6 ft. and the other is almost 6 ft. and we just wanted to expand it. We're just asking for 9 extra feet. We currently have only 7 ft. We want to go out to 16 ft.

Mr. Gordon: Ron, this is a nonconforming lot, right?

Mr. Alarie: That whole Millwood area was developed prior to current zoning. As you can see from the tax maps, many of the properties are nonconforming with respect to their lot size and frontage.

Mr. Salerno: Is there anybody in attendance this evening that wants to comment on this petition? Seeing no further comment, we'll take the matter under advisement, vote at the end of the meeting and notify you of our decision.

Decision

On February 5, 2003 the Zoning Board of Appeals unanimously voted to grant the appeal of Andrew and Rebecca Thompson, 22 Millwood Drive, Shrewsbury, MA, for a variance to the Town of Shrewsbury Zoning Bylaw, Section VII, Table II, Minimum Rear Yard Requirement, Residence B-1 District, to allow the construction of an addition 28 ft. from the rear lot line of property located at 22 Millwood Drive.

The board reviewed the appellants' proposal to construct a 16 ft. by 23 ft. addition to the rear of their home and found that the subject premises is nonconforming in terms of its frontage, area and existing rear yard setback. They noted that currently there is an enclosed porch which extends 7 ft. out from the rear of their home that will be removed to accommodate the new structure and that the existing rear setback will be reduced by only 9 ft.

It was the board's opinion that, due to the size and shape of this parcel and the siting of the existing dwelling thereon, the literal application of the minimum terms of the bylaw would impose a substantial hardship to the Thompsons. It was their opinion that a 9 ft. reduction to the existing rear setback would not materially alter the nonconforming configuration of this property, seriously depart from either the intent or the purpose of the bylaw or adversely impact the welfare of the general public. It was, therefore, unanimously voted to grant the appeal as presented to the board.

Vote

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| Mr. Salerno | Yes |
| Mr. George | Yes |
| Mr. Gordon | Yes |
| Ms. Deering | Yes |
| Mr. Rosen | Yes |

PUBLIC HEARING: Kyle Ritchie, 19 Raymond Ave., Shrewsbury, MA.

PURPOSE: To hear the appeal of Kyle Ritchie, 19 Raymond Ave., Shrewsbury, MA, for a special permit as required by the Town of Shrewsbury Zoning Bylaw, Section VI, Table I, to allow the construction of an addition upon property located at 19 Raymond Ave. to be occupied as an in-law apartment. The subject premises is described on the Shrewsbury Assessor's Tax Plate 22 as Plot 268.

PRESENT: Anthony M. Salerno, Chairman, Paul M. George, Martha P. Deering, Melvin P. Gordon, Ronald I. Rosen and Ronald S. Alarie, Building Inspector.

Mr. Salerno opened the hearing by reading the advertisement as it appeared in the Worcester Telegram on January 28, 2002 and January 28, 2002.

Mr. Salerno: Please identify yourself for the audio record and make your presentation.

Ms. Erickson: I'm Mary Erickson who owns the house right now. This is my daughter, Terry.

Mr. Ritchie: I'm Kyle, a grandson of Mary. I want to construct an in-law apartment on the back of the house. I'm making it handicap accessible for my grandmother who needs it to be handicap accessible as well as for my aunt. I'm making it so that they can live at the same residence. The current house has stairs in the front and stairs in the back. I'll pass the picture around. I don't have it blown up.

Mr. Salerno: You can just hand it to Mr. Gordon.

Mr. Ritchie: The construction will meet all zoning setbacks and whatnot. The only zoning law is the special use for an in-law apartment. My aunt gets picked up by the bus and brought to Mercy Center every day for work. The driveway on the side would be accessible for the bus company to pull in and pick her up every day. There's a breezeway. This is just a quick plan. I'll have it sketched out by an architect afterwards, after getting the special permit.

Mr. Gordon: We already have that.

Mr. Ritchie: All right.

Mr. Gordon: Do you have any dimensions?

Mr. Ritchie: Did I give you the dimensions of the lot? There are no dimensions of the lot?

Mr. Gordon: No, the lot dimension is there. I just was wondering the size of what you're building.

Mr. Ritchie: No, I didn't. Everything will be set based on the setbacks and the building code.

Mr. Gordon: Mr. Ritchie, this is a Residence B-2 zone. How is it that you didn't just ask to make this a duplex?

Mr. Salerno: Did you know that?

Mr. Ritchie: I'm sorry?

Mr. Gordon: Ron, couldn't he make this a duplex?

Mr. Alarie: Well, the lot has sufficient area, but it doesn't have sufficient frontage.

Mr. Gordon: He would need a variance.

Mr. Alarie: I think that, when he came in and discussed with me his proposal, I think the in-law apartment was more in line with what his needs were as opposed to making it a duplex.

Mr. Gordon: Alright, but you understand that, in time, if you want anybody but than your aunt and your grandmother living there that's not a relative, you'll have to come back here for changes?

Mr. Ritchie: Okay. So, at this current time, it would be something that I could proceed with?

Mr. Gordon: We're hearing it and it's the right thing to hear if that's what you want. It's just that you have to understand what the requirements are for a special permit for an in-law apartment. It's defined as, what is it, a blood relative of some type?

Mr. Salerno: Or, marriage.

Mr. Gordon: Or marriage, right.

Mr. Salerno: Is it limited to 3, Ron?

Mr. Alarie: Yes, by three or less individuals.

Mr. Ritchie: Versus that we could do a duplex?

Mr. Gordon: It doesn't preclude you from doing one after this.

Mr. Ritchie: Right.

Mr. Salerno: At some later date, the suggestion is that you could, not that it would automatically be allowed, petition to convert it to a duplex.

Mr. Ritchie: Okay.

Mr. Salerno: Are you going to be the contractor?

Mr. Ritchie: Yes.

Mr. Gordon: I have a couple of other questions. The size of the breezeway, and I realize that you don't have any dimensions there, is how large?

Mr. Ritchie: There aren't any dimensions.

Mr. Gordon: Why haven't you pulled the apartment closer to the house?

Mr. Ritchie: The house has a stairway in there. I also want to put a half bath, a laundry room and have some ability for me to help out with my aunt in that breezeway and a mudroom for getting in and out of both homes. So, that's why there's a little bit more space there.

Mr. Gordon: The garage is going to go on the back?

Mr. Ritchie: The garage will be on the end, yes.

Ms. Deering: So, you're planning a long driveway?

Mr. Ritchie: The lot is a long lot versus a short lot.

Ms. Deering: You're planning to eliminate the current garage?

Mr. Ritchie: Yes, the current garage will be eliminated.

Mr. Alarie: I don't know if it looks disproportionate on here, but can you give an idea of what the length of that breezeway is. Maybe that's why it's confusing.

Mr. Ritchie: It is disproportionate on there. I mean, this sketch definitely isn't to scale.

Mr. Gordon: The breezeway is about the same width as a 3-car garage. Is that your intent?

Mr. Ritchie: No, that is not what I intend. This is definitely not proportionate to what it should be. This is just basically to outline what it is that I'm going to be putting in.

Mr. Gordon: Do you think it'll be about 20 to 25 ft.?

Mr. Ritchie: The breezeway will be 15 ft. to 20 ft. at max. Then the 2 bedrooms will each be 12 ft. wide, 2 baths, the kitchen, living room and dining room up front and then the 3-car garage on the end.

Mr. George: The max should be about 36 ft. for a 3-car garage?

Mr. Gordon: So, you're going to be going back about 50 ft.?

Mr. Ritchie: Yes.

Mr. Gordon: Does that look about right, Ron?

Mr. Alarie: Well the lot is 230 ft. deep and there is certainly a lot of depth to accommodate the addition, but it's hard to tell without seeing a dimensioned plan of how everything will be laid out. But, I think it really is misleading as far as what is shown on here for the size of the breezeway attaching the 2 structures.

Mr. Ritchie: Again, the plan of this meeting wasn't to get a final plan. I didn't know that the meeting was to show that. I do have to apply for the permit with the plans. Am I correct?

Mr. Gordon: It's for a special permit.

Mr. Ritchie: Right, okay. That's what I was intending.

Mr. Gordon: Just for the future, it makes it much easier for us to have more information rather than having to interpret your plans.

Mr. Ritchie: Okay, sure.

Mr. Salerno: You understand also, Mr. Ritchie, that, if you were granted the special permit, we may place some dimensional restrictions on it, perhaps relative to the size of the structure, and that may occur.

Mr. Ritchie: Sure.

Mr. Salerno: Do you want to label the plan that we have because it is not proportioned? Do you want to label that plan with the dimensions you just requested or do you want us to set that?

Mr. Ritchie: I would love to be able to label the dimensions so that I could request them. If I could, I'll take a map and set it out and give it to you. If there are setbacks, that way I can show you what I am considering.

Mr. Salerno: Why don't you take one of those plans and, as far as structures, again, the building inspector and the board would like you to put down some numbers that coincide with how big those structures are going to be because it's not to scale.

Mr. Ritchie: Okay.

Mr. Salerno: That would help us when we consider this.

Mr. Ritchie: Okay.

Mr. Salerno: While you're doing that, is there anybody in attendance this evening that wants to comment on this petition? It doesn't appear that we have any further inquiries. Mr. Ritchie, when you give that back, there may be some further questions.

Mr. Ritchie: Okay.

Mr. Alarie: Mr. Chairman, you might want to consider that, perhaps at a later date, a finalized plot plan and maybe the final building plans be submitted to the board for approval.

Mr. Salerno: I think we're going to need a little more conformation on what is being sought and, as you said, the finalized location.

Mr. Ritchie: At the current time, would it be conceivable to put in front of the board a duplex proposition?

Mr. Salerno: That's your decision. Would that have to be advertised again?

Mr. Alarie: That would be a different matter and we would have to advertise it.

Mr. Ritchie: That would be a different matter?

Mr. Salerno: You would probably have to get on a different agenda because of the advertising restrictions.

Mr. Ritchie: Okay, then we can just go ahead with this.

Mr. Salerno: Okay. Mr. Ritchie, can you give us the dimensions on what it is you're proposing to do?

Mr. Ritchie: Yes.

Mr. Ritchie approached the board members and explained the plan.

Mr. Salerno: Okay, so you're showing a breezeway that's 15 to 20 ft. in width and 20 ft. in length. And you're showing the structure, the living area, after that to be 24 ft. by 45 ft. and then the garage to be 22 ft. by 45 ft. deep. So, we'll make that part of your record.

Mr. Ritchie: Thank you.

Mr. Gordon: Subject to his bringing in a final plan.

Mr. Ritchie: Sure.

Ms. Deering: I have one additional question, Mr. Ritchie.

Mr. Ritchie: Sure.

Ms. Deering: Since you're making the building interior, at least, accessible are you planning on a ramp? You said that there are stairs going up. I'm assuming that the structure is high.

Mr. Ritchie: That's part of the reason for the breezeway.

Mr. Salerno: The breezeway's at ground level?

Mr. Ritchie: My level, the first floor of the old property that I will inhabit, is up high.

Ms. Deering: Right.

Mr. Ritchie: The breezeway will be down low. My level will have stairs.

Ms. Deering: So, it will have a ground level entrance?

Mr. Ritchie: The breezeway will go in at ground level. The new building will be ground level.

Ms. Deering: Okay, fine.

Mr. Ritchie: That'll be handicap accessible.

Ms. Deering: Thank you.

Mr. Ritchie: That will have a full foundation.

Ms. Deering: Okay, thank you.

Mr. Salerno: Is there any further comment on this petition? Okay, Mr. Ritchie, subject to you submitting a finalized plan and dimensions to Mr. Alarie's office, we'll take this under advisement and act upon it with those conditions in place.

The decision of the board is on the following page.

Decision

On February 5, 2003 the Zoning Board of Appeals unanimously voted to grant the appeal of Kyle Ritchie, 19 Raymond Ave., Shrewsbury, MA, for a special permit as required by the Town of Shrewsbury Zoning Bylaw, Section VI, Table I, to allow the construction of an addition upon property located at 19 Raymond Ave. to be occupied as an in-law apartment.

The board reviewed the appellant's proposal to construct an addition to the rear of the dwelling situated upon the subject premises that will be occupied as an accessible in-law apartment and found the configuration of the unit and its intended occupancy to be in harmony with the intent of the bylaw in permitting such accessory living accommodations to be provided within or attached to a single family home. They found that the construction and use of the in-law apartment would not create any condition which would be harmful or injurious to the welfare of the general public. It was, therefore, unanimously voted to grant the appeal subject to the requirement that final plans of the addition's interior layout, its exterior elevations and site layout shall be submitted to the board for review and approval.

Vote

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| Mr. Salerno | Yes |
| Mr. George | Yes |
| Mr. Gordon | Yes |
| Ms. Deering | Yes |
| Mr. Rosen | Yes |

PUBLIC HEARING: Anthony Montonari, 6 Wood Street, Shrewsbury, MA.

PURPOSE: To hear the appeal of Anthony Montonari, 435 Sunderland Road, Worcester, MA, for variances to the Town of Shrewsbury Zoning Bylaw, Section VII, Table II, Minimum Front and Rear Yard Requirements, Residence B-2 District, to allow the construction of a single family dwelling 25 ft. from the front and rear lot lines of property located at 6 Wood Street. The subject

premises is described on the Shrewsbury Assessor's Tax Plate 32 as Plot 202-1.

PRESENT: Anthony M. Salerno, Chairman, Paul M. George, Martha P. Deering, Melvin P. Gordon, Ronald I Rosen and Ronald S. Alarie, Building Inspector.

Mr. Salerno opened the hearing by reading the advertisement as it appeared in the Worcester Telegram on January 28, 2002 and January 28, 2002.

Mr. Salerno: Please identify yourself for the audio record and make your presentation.

Mr. Montonari: I'm Anthony Montonari.

Mr. John Montonari: I'm John Montonari.

Mr. Montonari: That's my father, John. He's the owner of the land. I'm just looking to get a variance so that I can build a single family home.

Mr. George: Do you have any plans of what you intend to do?

Mr. Montonari: I just drew it on the paper for now. It's just to give you an idea. I know that I have to develop some of the road. I have guys all set to draw up the plans but I thought I would get the variance first. That's why I didn't draw up the plans for the road and sit the house on the lot.

Mr. Salerno: It would be more helpful to have that ahead of time so that we have some conceptual idea of what it is you're asking us to do.

Mr. Montonari: I got approved for it 10 years ago.

Mr. Salerno: Approved for what, sir?

Mr. Montonari: For putting a house on that lot.

Mr. Salerno: By who?

Mr. Alarie: Mr. Chairman, the Montonaris actually came before the board twice in the late 80's and early 90's. They had approval for both the division of the lot as it's shown on the plan and they recorded it at the Registry of Deeds, but they never constructed the house. So, the division of the land has been effected, however, in the placement of that house, you can see by the depth of the lot it's only 80 ft. deep, they needed relief from the front and rear setback requirements. He has to first secure those variances.

Secondly, he has to go back before the Planning Board. Wood Street is a paper street and they approved the improvement once in the past, but that has also expired. They have to go back and get re-approval by the Planning Board regarding what has to take place in developing the frontage for this lot.

Ms. Deering: So, this is a previously nonconforming lot?

Mr. Alarie: It's not nonconforming, it was done by variance. Numbers 202 and 202-1 were all 1 property until the board's previous action. I believe that it was in 1991 when they granted the relief to subdivide the property into those 2 lots.

Mr. Gordon: Will the road be south of your father's driveway?

Mr. Montonari: Yes.

Mr. Gordon: So, the driveway's going to stay?

Mr. Montonari: Yes, the driveway's going to stay.

Mr. John Montonari: There's no chance of that being an extended driveway then? We have a lot of ledge on that street. I'm concerned about that.

Mr. Salerno: Is that the hardship that your submitting tonight?

Mr. Montonari: At the time, yes.

Mr. John Montonari: It still is.

Mr. Montonari: We don't know what's under the road from Harrington Avenue down.

Mr. John Montonari: There's a vein that goes through there. It comes from my land. I have a fireplace that's on a piece of ledge. It goes directly across the road. When you dig down there, there could be a lot of blasting.

Mr. Gordon: Mr. Montonari, as I suggested when we met in the engineering office, have you spoken with your neighbor?

Mr. Montonari: Yes.

Mr. Gordon: There's a lot beyond his. It's 200. I guess it's 200, isn't it Ron?

Mr. Alarie: Are you referring to Mr. Scirpoli's?

Mr. Gordon: Mr. Scirpoli's, yes.

Mr. Alarie: Yes, that's the correct plot.

Mr. Gordon: I guess he comes in from Everett Ave., but he has rights on Wood Street once it's constructed or would have rights if he wanted to continue it to his land.

Mr. Alarie: That lot, if you look at plot 200, was also developed by way of variance. There was actually an easement given by the town meeting across plot 190, which is town owned property. His access comes from Everett Ave. Mr. Scirpoli also had to make improvements to both Wood Street, across that easement, in Everett Ave. and, I

think, up Morril Ave. There was a good degree of pavement that was done to satisfy the Planning Board's requirements to develop a duplex on that lot.

Mr. Salerno: Do any other board members have questions?

Mr. Gordon: This will be the final dimension of the house and placement of the house?

Mr. Montonari: That's up to you. I just need to know if I can build on it.

Mr. Gordon: Well, are you going to be 25 ft. and 25 ft. front and rear and 38 ft. and 20 ft. on the sides?

Mr. Montonari: Yes.

Mr. Gordon: So, those are part of the variances, right?

Mr. Montonari: Yes.

Mr. Alarie: Well, the variances would apply to that front yard setback of 25 ft. and the rear yard of 25 ft.

Mr. Salerno: So, in 1989, if I'm looking at this record correctly, they came in to build on the Wood Street lot. They were granted and never exercised it?

Mr. Alarie: They exercised the portion where they subdivided the property. They prepared a plan, it was endorsed by the Planning Board and it was filed at the Registry of Deeds. They never built the house and exercised the front and rear yard relief that was granted.

Mr. John Montonari: Excuse me, what we were looking for, Mr. Salerno, is that I have 2 boys. First we were looking at a duplex but we don't have the required land. So, they did allow us to build sort of a lower apartment. There would be a foundation higher off of the ground where we would have the lower apartment and one on the top. I think time did away with that.

Mr. George: Is that what was approved at the last hearing?

Mr. John Montonari: Yes.

Ms. Deering: All you're asking for now is a single family?

Mr. John Montonari: A single family.

Mr. Montonari: Right.

Mr. Salerno: That lapsed, the one that you were going to do in 1992?

Mr. John Montonari: Yes.

Mr. Salerno: So, that never happened?

Mr. John Montonari: No.

Mr. Gordon: You'll have to go before the Planning Board to construct the new street.

Mr. George: Ron, did they go before the Planning Board the last time?

Mr. Alarie: Yes, they did.

Mr. George: What were the stipulations they put on them?

Mr. Alarie: I think there was a plan approved. I'm not sure exactly what the dimensions of the street were. They had to extend the sewer, had to extend the water and pave to a certain width.

Mr. George: And, that was never done, right?

Mr. Alarie: Right. Subsequent to that Mr. Scirpoli built on the lot to the rear. Most of his utilities and everything come in from Everett Avenue.

Mr. Gordon: Does this still have to be worked out with the Planning Board and worked out with the Water and Sewer and Conservation?

Mr. Salerno: Is there anybody in attendance this evening that wants to comment on this petition? Seeing no further comment, we'll take the matter under advisement, vote at the end of the meeting and notify you of our decision.

Decision

On February 5, 2003 the Zoning Board of Appeals unanimously voted to grant the appeal of Anthony Montonari, 435 Sunderland Road, Worcester, MA, for variances to the Town of Shrewsbury Zoning Bylaw, Section VII, Table II, Minimum Front and Rear Yard Requirements, Residence B-2 District, to allow the construction of a single family dwelling 25 ft. from the front and rear lot lines of property located at 6 Wood Street.

In considering the appellant's proposal to construct a single family home upon the subject premises, the board noted that appeals were heard in 1998, 1999 and 1992 relative to the use of this site for both single and two-family use. At the last hearing, relief was granted to Mr. Montonari permitting him to subdivide this lot from his parents property, which fronts upon Harrington Ave., and to allow its development for single family use. In addition to the frontage and area variances that were needed to accomplish the separation, relief from the minimum front and rear yard setback requirements was also issued to position the proposed dwelling upon this parcel. Subsequent to filing of that decision, an "ANR Plan" was endorsed by the Shrewsbury Planning Board and that plan was then recorded at the Worcester County Registry of Deeds thereby effecting part of the aforementioned relief. However, the structure was never built and the front and rear yard setback variances lapsed.

In addition to the zoning relief Mr. Montonari currently seeks, he also has to reaffirm planning board approval regarding the development of Wood Street for frontage purposes.

It was the board's opinion, upon further review of this appeal, that the appellant's plans to construct his home upon the subject property were consistent with the decision rendered in 1992 and that, due to the configuration of this lot, the literal application of the minimum setback requirements would present an undue hardship towards its development. They found that the reduction of the front and rear yard setbacks as proposed would not significantly depart from the intent of the bylaw, conflict with the general character of other properties situated along this segment of Harrington Ave. or create any condition that would adversely affect the welfare of the general public. It was, therefore, unanimously voted to grant the appeal subject to the restrictions that only a single story, single family home may be constructed upon this lot.

Vote

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| Mr. Salerno | Yes |
| Mr. George | Yes |
| Mr. Gordon | Yes |
| Ms. Deering | Yes |
| Mr. Rosen | Yes |

PUBLIC HEARING: John Scirpoli, 30 Commonwealth Ave., Shrewsbury, MA.

PURPOSE: To hear the appeal of John Scirpoli, 30 Commonwealth Ave., Shrewsbury, MA, for variances to the Town of Shrewsbury Zoning Bylaw, Section VII, Table II, Minimum Frontage and Rear Yard Requirements, Residence B-2 District, to allow the construction of a single family dwelling upon property located at 34 Commonwealth Ave. having 37 ft. of frontage and to allow said construction 28 ft. from its rear lot line. The subject premises is described on the Shrewsbury Assessor's Tax Plate 33 as Plot 18 and part of Plot 16.

PRESENT: Anthony M. Salerno, Chairman, Paul M. George, Martha P. Deering, Melvin P. Gordon, Ronald I Rosen and Ronald S. Alarie, Building Inspector.

Mr. Salerno opened the hearing by reading the advertisement as it appeared in the Worcester Telegram on January 28, 2002 and January 28, 2002.

Mr. Salerno: Please identify yourself for the audio record and make your presentation.

Mr. Scirpoli: My name is John Scirpoli of 30 Commonwealth Avenue. I'm asking the Zoning Board of Appeals to grant me a buildable lot coming off of Commonwealth Avenue to the rear of Commonwealth Avenue. The property has 162 ft. of frontage that runs along Beacon Street. I'm looking for the 37.5 ft. to be an access to that property.

Mr. Gordon: Mr. Scirpoli, did you ever get your car out of that driveway?

Mr. Scirpoli: Yes, I did.

Mr. Alarie: Just so that the board knows, Beacon Street does not exist. It's a paper street. So, it does not qualify for frontage.

Mr. Scirpoli: When I built the house on Commonwealth Avenue, I brought the water and sewer up from Broadway which was, I think, around 300 ft. down the road. So, there is sewer and water to that property. It's just about 10 ft. from that property line.

Ms. Deering: What's the proposed square footage of this site?

Mr. Scirpoli: It's approximately 16,400 sq. ft.

Mr. Gordon: Ron, even though Beacon Street's not a street, does he have 2 front yards?

Mr. Alarie: No, it would be one front yard. Beacon Street would be construed as a rear yard where it does not qualify as a street.

Mr. Salerno: What is the hardship, Mr. Scirpoli, that you're asking us to consider?

Mr. Scirpoli: Beacon Street is an undeveloped road. It's totally solid ledge. The town has done some work on the beginning of it. I know they ran into it and they stopped whatever they were trying to do. They were trying to bring up some water or something. Also, when I built the house on Commonwealth Avenue, 2 lots across the street on Beacon Street had wells. I don't know if they have them or not now. The wells are in the ledge. When I was constructing the house, we had to clear some ledge on the bottom of the first level. I went over and measured the wells. Right now, the property sits about 2.5 ft. above the water table that's in the rock. I'm not an expert on water and rocks, but since Beacon Street is all rock, if you have to dig 4 ft. or 5 ft. into that ledge, you would probably pick up that well water that runs along there because you'll be below the depth of the well. I'm about 200 ft. straight across from it on Commonwealth Avenue. In 1979, in bringing up the sewer and water on Commonwealth Avenue, I know the price was over \$28,000 at that time. That was about 300 ft.

Ms. Deering: As I recall, Mr. Scirpoli, there's quite a drop-off. There's a flat level, or relatively flat level, near where your home is and then it drops off rather quickly. The proposed dwelling is in that drop-off area? Is that correct?

Mr. Scirpoli: My home is also in that drop-off area.

Ms. Deering: Yours is a bit more level. It kind of really steeps down after that.

Mr. Scirpoli: No, it's actually basically kind of at the same level. Where my back yard is, that area is probably only about 2 ft. below where I am.

Mr. George: Do you live in the house that's listed as the existing house?

Mr. Scirpoli: I live at 30 Commonwealth and my house sits down in that hole also.

Mr. Gordon: Ron, is lot 18 an existing nonconforming lot? Was that approved when it was subdivided?

Mr. Alarie: These lots date way back. As an individual lot, it wouldn't qualify for the grandfathered provisions because it only has 37 ft. of frontage. It would have to have the 50 ft. of frontage and 5,000 sq. ft. of land. I think Mr. Scirpoli purchased that property subsequent to the building of his home there.

Mr. Rosen: What's the cutout on lot 16?

Mr. Scirpoli: That's a garage for my existing house.

Mr. Salerno: These predate zoning anyway, don't they?

Mr. Alarie: Many of the lots up there do. His property currently conforms. He has the 100 ft. of frontage and the 12,500 sq. ft. of land.

Mr. Salerno: That's 17?

Mr. Scirpoli: It's 13,810.

Mr. Salerno: No, it's lot 17.

Mr. Scirpoli: Oh.

Mr. Salerno: Is that one lot?

Mr. Alarie: Yes.

Mr. Salerno: And, the extension that goes back into 16 where there's a cutout, at least in what we're shown here with a marking 100, is included? I assume that that belongs with the old lot.

Mr. Alarie: Right. If you see on the plot plan that was submitted, the existing house is on lots 17 and 348 and then there's the portion that he took off of lot 16 to site the garage.

Mr. Salerno: Okay. And the hardship you're asking us to consider is that?

Mr. Scirpoli: It's the issue of trying to build on Beacon Street if you hit solid ledge. But, if you hit the water, I think the water will never stop. Also, the house I live in now has 3 sets of stairs in it. I'm thinking of retiring in 2 years because I'm 50. I'm looking at the stairs and I'm looking at a single family house in the future with 1 level. It looks much easier to handle that in the future.

Mr. Salerno: Do any board members have questions?

Mr. Rosen: Do you have any plans for us to look at?

Mr. Scirpoli: I only drew a foundation plan. That would be basically a 2-car garage. It would be like a Cape with a 2-car garage.

Mr. Salerno: At least by the sketch that is on here, the proposal is for a 40 ft. x 30 ft. foundation. There is a 26 ft. x 28 ft. wing and then there are a couple of 12 ft. x 12 ft. extensions off of the back.

Mr. Scirpoli: The 26 ft. x 28 ft. is the 2-car garage. If you want to get 2 cars in, you have to have it that wide.

Mr. Salerno: What are the 12 ft. x 12 ft. extensions?

Mr. Scirpoli: Those are decks.

Mr. Salerno: Now, the decks are separated?

Mr. Scirpoli: Yes. Oh, I don't know why I did that.

Mr. Alarie: Is one of those an enclosed porch or are the both just decks?

Mr. Scirpoli: Oh, that's right. One's an enclosed porch. I'm sorry. I built it like the other house.

Mr. Salerno: You're not going to build this to look like a duplex?

Mr. Scirpoli: No. My other house is built with a closed in porch and an open deck on the other side. The one that, as you face it on the garage side, will be a closed in porch. That's what I have on this other house. Then I will have just an open deck.

Mr. Salerno: And you're going to move into this other one?

Mr. Scirpoli: Yes.

Mr. Salerno: Does anybody else have questions?

Mr. Gordon: I just have 1 or 2 other questions. Mr. Scirpoli, when you bought your current lot on Commonwealth Avenue, did you buy these 3 lots or did you just buy the 1 lot? Was your current lot divided into other ones later?

Mr. Scirpoli: I bought all the property around, what is it lot 17? I bought all the property around, all this property, yes.

Mr. Gordon: So, you had lots 17 and 348 when you built your house?

Mr. Scirpoli: I had lot 17 and then I bought lot 18.

Mr. Gordon: And 16?

Mr. Scirpoli: And 16 all at the same time.

Mr. Salerno: I think 17 and 348 are the same.

Mr. Gordon: Yes, I saw that. Alright, so there was nothing on this parcel of land when you bought it?

Mr. Scirpoli: No.

Mr. Salerno: Ron, why don't these merge in when they are nonconforming lots when he purchased them? Why don't they merge together as one lot?

Mr. Alarie: Well, they do merge, but again, he has one conforming lot and he's looking for approval to subdivide that second lot with the 37 ft. of frontage.

Mr. Salerno: So, lot 17, where he currently lives, 16 and 18 are now all one lot. He is looking to subdivide this out?

Mr. Alarie: Correct.

Mr. Salerno: The hardship of subdividing it is the ledge?

Mr. Gordon: And, no street on Broadway.

Ms. Deering: And, no street where it says there is one.

Mr. Scirpoli: That's all one lot now.

Mr. Gordon: I understand that now.

Mr. Salerno: Is there anybody in attendance this evening that wants to comment on this petition? Seeing no further comment, we'll take the matter under advisement, vote at the end of the meeting and notify you of our decision.

Decision

On February 5, 2003 the Zoning Board of Appeals voted one in favor of and four opposed to granting of the appeal of John Scirpoli, 30 Commonwealth Ave., Shrewsbury, MA, for variances to the Town of Shrewsbury Zoning Bylaw, Section VII, Table II, Minimum Frontage and Rear Yard Requirements, Residence B-2 District, to allow the construction of a single family dwelling upon property located at 34 Commonwealth Ave. having 37 ft. of frontage and to allow said construction 28 ft. from its rear lot line.

The appellant owns 4 contiguous parcels that are situated at the end of Commonwealth Ave. which, when combined, extend to that end of Beacon Street which is currently unimproved. Mr. Scirpoli has constructed a single family home and a detached garage upon 2 of these lots and a portion of the third plot. He proposes to construct a new dwelling upon the balance of the site utilizing the last 37 ft. of developed frontage along Commonwealth Ave.

Upon review of this appeal, the majority of the board found that there were no conditions affecting the subject property that would warrant the granting of the relief requested. It was their opinion that the reduction of the minimum frontage requirement by more than 60 per cent significantly deviated from the intent of the bylaw in providing such standards for the orderly and controlled development of the town. Finding that the presentation did not satisfy the statutory requirements for the granting of the variances requested, they, therefore, voted to deny the appeal.

One member of the board noted that this neighborhood was developed well before the adoption of zoning and consists primarily of nonconforming lots. He also noted that there were physical conditions affecting this site, such as the severe drop in elevation across the depth of the subject parcel and the existence of the ledge that dominates this area, that present undue hardship to the appellant. It was his opinion that the construction of a single family dwelling upon this land would not adversely impact the neighborhood or significantly depart from the intent of the bylaw and, therefore voted to grant the appeal.

Vote

| | |
|-------------|-----|
| Mr. Salerno | No |
| Mr. George | No |
| Mr. Gordon | Yes |
| Ms. Deering | No |
| Mr. Rosen | No |

PUBLIC HEARING: John M. Grenier, J.M. Grenier Associates, 41 Surrey Lane,
Shrewsbury, MA

PURPOSE: To hear the appeal of John M. Grenier, J. M. Grenier Associates, 787
Hartford Tpke., Shrewsbury, MA, for a variance to the Town of Shrewsbury
Zoning Bylaw, Section VII, Subsection B-7, to allow the division of
property located at 41 Surrey Lane into two lots with one lot having 31 ft. of
frontage. The subject premises is described on the Shrewsbury Assessor's
Tax Plate 21 as Plot 84.

PRESENT: Anthony M. Salerno, Chairman, Paul M. George, Martha P. Deering, Melvin
P. Gordon, Ronald I Rosen and Ronald S. Alarie, Building Inspector.

Mr. Salerno opened the hearing by reading the advertisement as it appeared in the
Worcester Telegram on January 28, 2002 and January 28, 2002.

Mr. Salerno: Would the parties identify themselves for the record and make their
presentation please.

Mr. Grenier: Good evening, I'm John Grenier of J.M. Grenier Associates. I'm here with
John and Joellyn Breshnahan of 41 Surrey Lane.

Mr. Salerno: I'm just going to ask you to keep your voice up. If there's anybody who can't hear, would you just let us know so that we'll ask the parties to keep their voices up.

Mr. Grenier: The parcel that we're here before you tonight for is outlined right here. It's 2 ½ acres located right at the sharp turn on Surrey Lane, just off of Westwood Road. As you can see, it is a very unique piece of land. In this development, there are a lot of, lets say, "butcher block" shaped lots on both Colton and Westwood Roads. They're ¼ acre and 1/3 acre lots. The parcel that we're talking about is a 2 ½ acre lot which has approximately 88-89 ft. of frontage.

What we are here before you tonight for is to allow the subdivision of 1 lot from this main lot for the Bresnahans. They're looking to build a house on the smaller lot for themselves and reduce the size of the house they have to take care of. They want to stay in the same neighborhood. They like the neighborhood. They've been longtime residents of Shrewsbury. I'm sure quite a lot of people here know them. In order to do this, we will need a reduction in the frontage from the required 50 ft. down to 31 ft. I would like to tell the board that this proposal is a minimal subdivision from what they could do by right by the subdivision regulations. By right, they would be able to do a cul-de-sac on this property. It's 2 ½ acres and they would be able to get a larger lot count and make money on the deal. It's not their intention. What their intention to do is to minimize their yard area, minimize their house area, stay in the same neighborhood and just subdivide 1 lot off of this main parcel.

Mr. Salerno: Are you ready for questions?

Mr. Grenier: Yes.

Mr. Gordon: Mr. Grenier, do your clients intend to use the same driveway as a common driveway?

Mr. Grenier: They have not yet decided on a house footprint. They know that they want to reduce the size of the house. Depending upon the configuration, the layout of the house may lend itself to having a common driveway as the existing driveway does run up the center of the lot. So, it may lend itself to that. Do they have any definite plans either way, no they don't.

Mr. Gordon: Should the board grant the variance, would the owners be willing to add a deed restriction that no further subdivision of this land could occur?

Mr. Grenier: We discussed that. Yes, they would be willing to a deed restriction that no other lot be subdivided from this parcel.

Mr. Gordon: From what you said, in the current driveway area they could have a 50 ft. right-of-way in there and put at least 2 more houses there if they so desired, right?

Mr. Grenier: Right, by right they would be able construct a road and create additional lots.

Mr. Gordon: They wouldn't need to come here?

Mr. Grenier: Correct.

Mr. Gordon: So, what they're trying to do is subdivide it for just one, as opposed to 2 lots?

Mr. Grenier: For 1 additional lot.

Mr. Gordon: For 1 additional as opposed to 2 additional lots?

Mr. Grenier: Correct.

Mr. Gordon: I don't have any other questions.

Mr. Rosen: What would be the hardship for granting the variance?

Mr. Grenier: It's a very irregularly shaped lot that doesn't lend itself well to subdividing although it is capable of having further subdivision. The hardship is that it is a very irregularly shaped lot.

Mr. Rosen: Ron, would they have to go to the Planning Board?

Mr. Gordon: In time.

Mr. Salerno: How closely situated is the current house to the rear property line?

Mr. Grenier: At its closest point, it is approximately 112 ft. I would also like to point out that the lot that's going to be subdivided is almost .9 acres. In this zoning district, it only requires 12,500 sq. ft. So, the smaller of the 2 lots is approximately .9 acres.

Mr. Salerno: If we were to allow you to have 2 lots, what would be the square footage of each lot?

Member of the audience: What is the question, please? Could you please speak up; we can't hear you.

Ms. Deering: The question was what is the square footage of the 2 lots?

Mr. Salerno: The proposed lots.

Mr. Grenier: The existing lot is over 2 ½ acres. When subdivided, we would have 1 lot that is .88 acres and the larger of the 2 would be 1.65 acres which has the existing house on it.

Mr. Rosen: How big of an area would they both have to be to be conforming?

Mr. Grenier: They would both be conforming. The only nonconformance would be for the frontage which could be made up in a cul-de-sac.

Ms. Deering: Mr. Alarie, if this were to go into a cul-de-sac situation, how much footage do they need for that road leading in there?

Mr. Alarie: Well, when you mean footage do you mean frontage?

Ms. Deering: I mean width. Right now the frontage is 31.89. What would it have to be if it was going to be a cul-de-sac?

Mr. Alarie: I think Mr. Gordon could address that. Basically, the subdivision rules and requirements stipulate a 50 ft. right-of-way, but that can be reduced to 40 ft. by a waiver request.

Mr. Gordon: The rules stipulate a 50 ft. right-of-way, but they would be on the new cul-de-sac and they would have adequate frontage.

Ms. Deering: Is 31.89 wide enough to put in a cul-de-sac?

Mr. Gordon: No, but 50 ft. is there already. If you look to the right of that Martha, the current driveway exists on a piece that is 53.28 ft.

Ms. Deering: So, the cul-de-sac would have to come in at a wider area?

Mr. Gordon: It would come in right here and the house would be on this new road. The new house and the old house would be on the new road as would the third house.

Member of the Audience: So, where the existing driveway is?

Mr. Salerno: Wait a minute. We're going to open it up in a minute.

Mr. Grenier: There is a 2nd plan that shows the planned subdivision.

Mr. Salerno: That is the one with Lots A, B and C?

Mr. Grenier: Yes.

Mr. Salerno: What I would suggest to you, Mr. Grenier, is that, after we take a look at this, you might want to post this too. Do you have a second one?

Mr. Grenier: Yes, I do.

Mr. Salerno: Why don't you put those up so that we can do a chart by chart comparison or, at least, turn it so that the people that are here can see it.

Mr. Aharonian: May I also ask, please excuse the interruption, could you please speak a little louder. You all seem to be mumbling. I don't know if I'm in the minority and I don't want to sound like a lone ranger, but I have a great of difficulty following the conversation. I don't know if the rest of the individuals here are having the same problem.

Mr. Salerno: Well, we'll make an effort to raise our voices. Is that better for you?

Mr. Aharonian: Thank you.

Mr. Salerno: Sure, no problem. Very seldom am I accused of not speaking loud enough.

Mr. Gordon: Or, aggressively enough.

Mr. Salerno: Again, Mr. Grenier, for the benefit of the people who have come here this evening, perhaps you can just do a brief presentation on the comparison between what it is that you're asking the board to do and what you could do without relief from this board?

Mr. Grenier: What we're requesting the board to do is to allow the subdivision of 1 lot on this side in front of the existing parcel. This would be the .88 acre lot. This would be the 1.65 acre lot that the existing house sits on. This would be an area for a new house for the Bresnahans, potentially, and not requiring any variance. Or, we could just go through the subdivision rules and regulations of the Town of Shrewsbury and they would be capable of selling property. Someone could potentially put in a cul-de-sac and then subdivide and get additional lots out of this which, would, obviously be more pavement, more traffic and additional houses. This has much less impact, much less pavement, obviously, plus less development. However, it does require a waiver.

Mr. Salerno: Are there any other board members that have questions at this time regarding the presentation?

Is there anybody here in attendance this evening who would like to be heard? Just give us your name and what you'd like to say and direct all questions to the board. Please keep your voices up so that we will be able to record your comments.

Mr. Lancey: My name is Robert Lancey. I've been a resident of Shrewsbury for 43 years. I've lived on Colton Lane for 25 years. I'm an abutter to the proposed new lot that Mr. Grenier's been describing. In 1977 when my wife and I first considered buying our house at 36 Colton Lane, we were impressed with the privacy of our back yard. It was bordered by property grown up with trees and undergrowth. This bordering property is part of 41 Surrey Lane. At the time we looked at our property, we could visually determine that, because of the limited frontage on Surrey Lane, people would not, according to the zoning rules, have a buildable lot.

Mr. Salerno: What was not a buildable lot?

Mr. Lancey: By looking at it, we determined that it was not a buildable lot. That is, it did not have the frontage that was necessary, the 50 ft. frontage for the proposed lot.

Mr. Salerno: Okay.

Mr. Lancey: Anyway, a reading of the town's conditions which, I would like to quote if I could, "must be met before the zoning board of appeals may act favorably upon a request for a variance is that a hardship must exist upon the land that requires the applicant to

apply for a variance.” An example, given by the town, of a hardship is “a ledge or a rock condition which exists upon the property which does not allow construction within the conformity of the bylaw.” The copy of the town’s conditions which I was given further states that “financial hardship by itself is not a reason for granting the variance.” The hardship condition in this request for a variance does not appear to be mentioned. The conditions that must be further met state that a variance cannot substantially derogate from the intent and purpose of the bylaw. An example given of this condition is that varying a front yard setback from 30 ft. to 10 ft. would be, in most instances, a potential derogation from the intent and purpose of the Shrewsbury Zoning Bylaw. The variance requested before this board tonight seems to me to be significant because the variance is one of approximately 40 %. That is a reduction of the frontage requirement from 50 ft. to 31 ft.

There is one further point of consideration or something that I think should be considered. On the east side of Beaver Drive, which is further down behind the Bresnahans lot, there is a catch basin. At times, I’ve heard water flowing into this basin. The water apparently is coming from the direction of the 41 Surrey Lane lot because the land slopes in that direction from Surrey Lane down to Beaver Drive. This would seem to raise a question that I think needs to be answered. Would construction of any portion of 41 Surrey Lane affect this apparent drainage situation? Again, I don’t know the purpose of the dry catch basin or the source of the water that has been heard flowing into it, but it seems to me that it bears investigation. Should there be some sort of drainage system flowing from the Surrey Lane property; construction on that property might disrupt the flow of the water. It might cause water to back up and cause the water table to rise around foundations on Westwood Road, Beaver Drive and Colton Lane.

In conclusion, I believe that 2 of the conditions which must be met for granting a variance, a hardship exists and the variance is not substantial activity, are not met and I respectfully request that this board deny this request.

Mr. Salerno: Thank you, sir. Your questions have been answered though? You just wanted to read in your position and statement? You don’t have a question for us?

Mr. Lacey: That is correct.

Mr. Salerno: Is there anybody else this evening? Again, ma’am, just identify yourself for the record please.

Ms. Canty: I’m Alice Canty of 58 Westwood Road. The Bresnahans have been in town for a very long time. They have property. My concern is when the Bresnahans wish to sell this property.

Mr. Salerno: I’m sorry, I didn’t hear that part.

Ms. Canty: When the Bresnahan family wishes to sell the property in the future, how then is this property going to go into the next hands of the other people. In other words, are the Bresnahans still going to own all this property? Are they going to own the big house or are they selling that to somebody else? My concern is what happens to this property when the cottage is sold, when the big house is sold. Then, at that time, can the

other property be developed by the other owners in the future? I'm looking to the future of this property, not just now.

Mr. Salerno: Again, it's my understanding by what's been presented this evening that, if it is split into 2 lots, it would be the final division of that because I don't think there would be any way to configure it. I shouldn't say that, but it would be unlikely that there could be a configuration that they would be able to further subdivide that.

Mr. Gordon: It would require a deed restriction so that so that there wouldn't be.

Mr. Bresnahan: Like we said, we're willing.

Mr. Salerno: In addition to that, ma'am, if that suggested configuration where it's subdivided into 2 lots, if that doesn't go or be approved, I believe the presentation showed where there are 3 lots. They would not need the permission of this board to do the 3. They need permission, oddly enough, to do the 2. They don't need permission to do the 3.

Ms. Canty: I understand that. So, if the variance is granted and the cottage goes up, can the other land be developed in the future?

Mr. Rosen: No.

Ms. Deering: We would put a deed restriction on it, Ms. Canty.

Ms. Canty: And that would be forever? It would never be developed?

Mr. Salerno: I believe the parties said that on the record. They would agree to that.

Mr. Taupier: My name is Robert Taupier. I live at 38 Colton Lane. I've lived there for about 2 years. My wife and I, similar to Mr. Lancey, purchased the property because of the large parcel of woods in the back. As a matter of principal, I would be against subdividing for the various reasons that Mr. Lancey has stated as well as from an environmental standpoint from the destruction of mature woodlands, related habitat, eco systems and, again, runoff concerns and wetlands concerns. Then, just from a historic preservation standpoint, this is a very historic section of town. The overall looking character has been maintained. This is actually the approximate area where Lewis Colton had bought his first 6 acres of land and where a cow path actually became Colton Lane. To the extent that the board would grant the variance, I guess I am happy to hear that there would be a permanent deed restriction.

Other conditions that I would like to see to the extent that, if the board were to approve the variance, would be some deforestation restrictions in terms of minimizing the amount of trees that would be lost, runoff management in terms of installing required drainage basins, culverts, etc., vegetative or a fence screening for the abutters that would be most affected on Colton Lane, tastefully done, and then just some general restrictions in terms of construction hours and blasting restrictions and things.

Mr. Salerno: Those are already governed by the bylaws.

Mr. Gordon: May I ask you a couple of questions?

Mr. Taupier: Me?

Mr. Gordon: Yes.

Mr. Taupier: Yes.

Mr. Gordon: You've lived there for 2 years right behind the open property?

Mr. Taupier: Yes.

Mr. Gordon: You've enjoyed the open property?

Mr. Taupier: Yes, the woods.

Mr. Gordon: And, that's why you're there, because you enjoy the open property?

Mr. Taupier: Right.

Mr. Gordon: Have the owners of the property benefited from your enjoyment?

Mr. Taupier: Have they benefited from my enjoyment?

Mr. Gordon: I'm just trying to see if we can't see what's happened over the years here.

Mr. Taupier: I'm not sure I understand your question.

Mr. Gordon: Well, you said that part of the reason you like this is the woods.

Mr. Taupier: Right.

Mr. Gordon: Okay. And, you've enjoyed the woods and the woods are owned by the proponent.

Mr. Taupier: Right, which they could cut down tomorrow.

Mr. Gordon: Absolutely. You've benefited from it, but have you given them anything for that benefit other than being a good neighbor, which we all hope everyone is?

Mr. Taupier: I guess I'm not sure what you're asking. Have I given them consideration for the woods?

Mr. Gordon: Yes.

Mr. Taupier: No.

Mr. Gordon: See. Sometimes we don't think of the person who has the parcel and their rights. We think of our use and our rights. None of us are Solomon, but we do try to do what's right.

Mr. Taupier: Right.

Mr. Gordon: I understand everything you said. This was Colton's original piece of land. You don't want to see trees cut down. This may not go because it may not be the hardship that we need and it may go to 3 houses. Looking at it, it probably could be more if they wanted to tear down their house and then rebuild. This could be a larger subdivision which would destroy all of the things that you hold so dear, both of you hold so dear. So, I'm just wondering if you don't want to reconsider this request.

Mr. Taupier: What I am saying is that, as a matter of principle, I guess I oppose doing anything with the woods.

Mr. Gordon: Well, I don't think that they would clear-cut it. I mean, they've lived there this long and I don't think that they would clear-cut.

Mr. Taupier: All I'm saying is that, to the extent it's possible keep as many trees as possible. I guess a lot of the abutters are open, and I think myself included, to the extent that, if there is going to be some subdividing, that it is kept to a bare minimum in terms of cutting trees and there are restrictions in terms of whether there are conditions related to, if necessary, vegetation, screening or something else.

Mr. Gordon: So, if they or we could accomplish the things that you want, you would be closer to taking a liking to plan A than to plan B.

Mr. Taupier: Right.

Mr. Gordon: Because Plan B just doesn't protect it.

Mr. Taupier: Right. As a matter of principal, I'm opposed to any development.

Mr. Gordon: It doesn't make you unusual in any neighborhood in town.

Mr. Taupier: No.

Ms. Eresian: I'm Melanie Eresian from 25 Westwood Road. If you could bear with me for one moment, my neighbors on Surrey Lane hear what you're saying. I've lived here more than 3 years. My way of getting from Surrey Lane over to Colton Lane was to take the Adam's path So, I understand what you're saying and I would support what's happening because I certainly like my neighbors. I would prefer something that would benefit my neighbors. I appreciate the deed restriction. That's what we're all most concerned with, that there's something that says "Okay, here it is and that's it." My only question would be on the planning consideration. Would there be a description on the plan that says that there will be no further subdividing?

Mr. Gordon: It won't come to us if it's just a variance. If it comes to us, we would hear it and you would come and you would tell us your concerns. But, it would be a subdivision.

Ms. Eresian: Okay. I was just looking for that extra thing, you know. We have the deed restriction and all.

Mr. Gordon: It wouldn't have to come to us, correct Ron? It's just a variance.

Mr. Alarie: If the board was inclined to grant a variance and incorporate into the decision that neither lot could be further subdivided and if they exercise those rights to build on that second parcel that would preclude future subdividing of that property.

Mr. Salerno: Again, even if the variance is granted, they don't have to utilize it. They could go to Plan B and forget the variance once it's granted. It isn't forced upon them. So, it's something to consider. Remember that old phrase "be careful of what you ask for."

Ms. Eresian: That's absolutely true. I guess I would say certainly it's important, what this vote is for.

Mr. Salerno: Minimization.

Ms. Eresian: We would all greatly appreciate it.

Mr. Duncan: My name is William Duncan. I reside at 51 Colton Lane. I have one very quiet question. With any subdivision that takes place there, question one is how is sewerage disposed currently from the present house and how is sewerage going to be disposed from this second house? I would point out that, if we go to a multi-house development there, that would be added onto the Colton Lane pumping station and that is added to the development over at Gulf Street. We added 12 houses onto a system that the state had, at that time after considerable investigation done by our sewerage department, and they were given as being about 66 %. As an engineer, I know very well that the efficiency of machinery deteriorates with time. I simply add the caveat. I'll ask the 2 questions and add the caveat. You can't get a quart measure out of a pint pot. I hope you will keep that in mind.

Mr. Salerno: Again, could you tell us, Mr. Grenier, are you aware of how the current hook-up is?

Mr. Bresnahan: As to the second part of the question, we have a right-of-way to Colton Lane.

Mr. Salerno: The sewer connection?

Mr. Bresnahan: Yes.

Ms. Duncan: My name is Suzanne Duncan. As a follow-up, if you went with Plan A, then where would the sewer hook-up be? Would that tie in with what's already there and going out the same way?

Mr. Bresnahan: My honest answer is that I don't know.

Mr. Salerno: Mr. Grenier may be able to answer that.

Mr. Grenier: If I'm correct, there is sewer in Surrey Lane. I believe there is a manhole right there at Surrey Lane. We would have to take a look at the inverts. If possible, we could go gravity to that with this new house depending on the elevation the house and whether they want a sewer basement. The worst case scenario would probably have an ejector pump pump into the gravity sewer.

Mr. Duncan: May I add one thing?

Mr. Salerno: Go ahead, sir.

Mr. Duncan: The 66 % was before the addition of 12 more houses at the Gulf Street site. So, we're working at some place certainly in the 70s less than by the efficiency factor.

Mr. Salerno: Do any other residents wish to comment?

Mr. Newton: I'm Bill Newton of 21 Colton Lane. I just have a question, if you could. Would you explain to us, you talk about hardship, you talk about the lay of the land and the shape and soils and what have you, what's the connection between the 2 plans in terms of making a decision to grant a variance? What needs to be found in terms of that? How does that work?

Mr. Salerno: There's a statutory listing and a bylaw listing of what hardships are to be considered. They've been enumerated by this gentleman when he read them. Some of them are the soil or ledge conditions, lot configurations and the usage of the property. Those are factors that we would listen to in deciding whether or not to grant this as a variance. There are other factors too that we listen to. Certainly, opposition is one of them. Again, with no variance, like we said, with Plan B they have to follow a different set of rules. Those rules would be as to the subdivision of that property. So, none of those factors apply.

Mr. Newton: But, that's not a consideration as to whether it's subdivided or not. He could obviously do that. I guess the question is what moves you to say "yes" to a variance given that there's a piece of property and unknowns. I think most of us would question whether there are any difficulties or hardships connected to the land itself, the shape of the land, the soils, you name it? How do you make that connection such that you can say "Yes, that's there and present and the hardship is true" such that we can say "go ahead and grant the variance?"

Mr. Salerno: Each application is taken on its own merit. We don't have a general rule where everything fits neatly into a pigeon hole. If it fits hardship A, then we grant this. If it fits hardship B, we grant this. We weigh it in its totality. As a board, we deliberate,

we discuss it and each of us may view a hardship differently. Some of us may not see a hardship at all based on the presentation here. Some may feel that what is presented reflects one of the other hardships. So, it doesn't fit neatly into a formula. I don't know if that helps you at all. So, we can't say to you tonight "I recognize this unusual shape and configuration as the hardship and that I'm going to support this application on that basis."

Ms. Deering: If I can read to you from a power point presentation of some of the laws of the state from the General Laws. "There are 3 required findings for granting a variance. The first is soil condition, shape or topography of the land," those 3 and "hardship and public good." Now, if you want me to elaborate, I can. But, it's those 3 things that have to be taken into consideration. In terms of the property itself, it's the soil, the shape of the property or the topography of the property. Then, you also have the hardship factor and the public good factor.

Mr. Newton: So, the issue now is taking a requirement of a 50 ft. frontage and asking for that to be reduced down to 30 some feet and that is the hardship?

Mr. Salerno: That's the relief that's being asked for.

Mr. Newton: So, can you explain to us what the hardship is other than I want less to be able to do what you normally would be able to do?

Mr. Salerno: There is a bylaw, sir that requires it to be a certain width. They're asking for relief from that bylaw based upon their presentation which, in their position, incorporates some of those hardships we will weigh.

Mr. Newton: Could we know what those are? I'm sorry; I didn't hear all the hardships that were involved with the property itself.

Mr. Salerno: Well, it was part of their presentation, what they presented, rather than have them go through that again, exactly what they've identified for a hardship. We're going to weight those hardships.

Mr. Gordon: One of the other issues is the common good. We did hear "derogate from the bylaw." But, is the common good better served by putting in a 3 or 4 lot subdivision with a failing pump station or is it better served by having 1 lot on a larger piece of land. Those are some of the issues that we have to discuss later.

Mr. Salerno: Is there anybody in attendance this evening that wants to comment on this petition? Again, I want to give everybody a chance to speak once before we get repeats.

Ms. Aharonian: Bear with me, my name is Marion Aharonian. In 1960, we purchased the area where that house is that faces Westwood Road, that house on the extreme right. If that goes through, it will be very close to the back of my house. We built in 1960/1961.

Mr. Salerno: Can I ask you, ma'am, which plan you're referring to, the one on the left or the right?

Ms. Aharonian: If there's a hardship, at this point, I'm speaking about a hardship.

Mr. Salerno: Well, which plan are you referring to? If you want to come up, ma'am, come right up and point it out. It might be easier for us.

Ms. Aharonian: This is my first meeting.

Mr. Salerno: Well, you're doing great.

Ms. Aharonian: We are here on Westwood Road. When the Mathews owned this, the water ran down this side and onto the end. The hardship we faced was that we ran out of money because there was so much ledge and there was a very beautiful little brook that would dry up in around August. But, it created a hardship even with a septic tank and the ledge and the stones that came out. The rocks that came out of there cut off all of Beaver Drive, the whole area. I don't know how they ever took that away. My feeling is that, when we had a septic tank, we had a problem with the sewer coming in. We were very grateful when this ground was all moved around and we lost the river. We don't have it any more. We were very lucky that sewers finally came in because there is a lot of wet there. But, we lost the water. Where it has gone, I don't know. I want everybody to have what they want, but at the same time, I'm concerned about the land that is so close to the town.

Mr. Salerno: You understand, ma'am, that what they're proposing is the plan on the left which will least affect you and they could go with the plan on the right which could most affect you without our permission?

Ms. Aharonian: They might not because you can't automatically subdivide land. I'm not against their building a retirement home at all. But, I am concerned about all that blasting that's going to be done.

Mr. Salerno: Thank you very much.

Ms. Aharonian: You're welcome.

Mr. Salerno: Sir, please just identify yourself for the record.

Mr. Kirk: I'm Chris Kirk of 40 Westwood Road. I have a letter here on behalf of a direct abutter that I would like to have entered into the record.

Mr. Salerno: Okay; she's asked you to present that, sir?

Mr. Kirk: She's asked me to present it.

Mr. Salerno: Okay, if you give that to me, I'll make it part of the record.

Mr. Kirk: I've got a typed version of it on the back to make it easier to read because it's written in her hand writing. She also asked me to make a few remarks on her behalf. She

is currently incapacitated. She couldn't appear, but she asked me to make these remarks on her behalf. Is that all right?

Ms. Deering: Would you please identify her for us so we know who you are speaking for.

Mr. Kirk: She's Mary Lee Alonso. She lives at 39 Surrey Lane. Her property is located at the curve of Surrey Lane. She is a direct abutter. Before I proceed, could I just ask a few very quick questions? It is not exactly clear where this house is proposed to be built. Is it proposed to be built behind number 34, 36 and 38 Colton Lane? Could that be part of the decision of this board? The applicant would like to basically build it anywhere.

Mr. Salerno: Do you want to respond to that? Sir, this letter that you gave me is unsigned.

Mr. Kirk: If you look at it, she did sign it.

Mr. Salerno: I did look at it. Do you want to show me where it's signed?

Mr. Kirk showed the signature to Mr. Salerno.

Mr. Salerno: Well, that's what's printed all over. Okay, this is where it is. It's printed and it's signed and the typed isn't signed.

Mr. Kirk: No, no. I typed that myself just to make it easier for you to read, that's all. I'm sorry about that.

Mr. Salerno: That's all right. Go ahead, I'm sorry.

Mr. Grenier: The question was where will the house be built? They don't have any specific house designs yet or any specific size although they do want smaller. I did add the zoning setbacks, front, side and rear, which conforms to all of the town rules and regulations which are 30 ft. in front, 40 in the rear and 10 ft. on the sides. So, it would fall somewhere within that area. Specifically, we don't have a set footprint or location for that. But, it would fall within the town's zoning regulations.

Mr. Kirk: Would the decision of this board allow them to build anywhere within that portion? Is that correct? They could build anywhere within there?

Mr. Salerno: On the divided lot or on the proposed lot?

Mr. Kirk: On the divided lot. With the setbacks, they can build anywhere within that area?

Mr. Salerno: If they stay within the other requirements.

Mr. Kirk: Also, just 2 more questions. Once the property is subdivided, would it be possible to add on to it? Could they add a second floor, a garage, a porch or things like that?

Mr. Salerno: After they build the structure, could they then modify it again?

Mr. Kirk: Yes.

Mr. Salerno: Again, if it needed a variance or a special permit, they would have to return to the board. You're asking us to look into a crystal ball. If we could do that, we'd all go to Foxwoods. I don't know what they're going to put on it until they build it. If it is something that doesn't fit within the bylaws, they will have to come back here.

Mr. Kirk: But, they would be allowed to add onto whatever they build?

Mr. Salerno: As long as they didn't encroach upon the required setbacks. They would have to come back here if they did that or seek a special permit, correct Ron?

Mr. Alarie: It would be a variance if they could not conform.

Mr. Kirk: The plan on the right would involve the construction of a cul-de-sac. Would that require a permit from the Planning Board?

Mr. Salerno: Mr. Gordon?

Mr. Gordon: It would if it was a subdivision.

Mr. Kirk: So, they would have to first get approval of that cul-de-sac and then they could subdivide it, but not the other way around?

Mr. Gordon: No, that would all be part of the same. They would bring us the proposed road and the proposed lots on the road. They would all have to meet zoning. If they all met zoning, we would hold a hearing to determine that it did meet zoning and would comply with other rules and regulations that we have and they would be off to the races.

Mr. Kirk: I just want to make sure that I understand this correctly. If the plan is not approved, the other one isn't automatically approved. It has to go through an approval process by the Planning Board?

Mr. Salerno: It goes to another board, it doesn't come before us.

Mr. Kirk: I just wanted to make sure that I understand that. With that, I'll just try to go through these remarks as quickly as I can. One is that Ms. Alonzo's father, John Adams, had sold a parcel of land to join 39 Surrey Lane to the previous owners of the parcel, the Mathews, with a verbal understanding, not a written understanding, that the property that was sold would not be developed because the property had sentimental value. The kids had used it as a playground and some had used it as a pet cemetery and didn't want it developed. She says that she would like the parcel closest to her house not to be developed. She says that she likes to preserve animals and trees. She says that she recalls that the Master Plan, although it didn't go quite as far as she wished to preserve open space, she does remember that the town adopted cluster development in order to

preserve open space and that the town approved the 5 million dollar bond to preserve open space.

She said that she would hope, she wishes very strongly, that the ZBA not grant the variance. But, if they do, she would like the following to be restricted; the further subdivision of the land, she would like the cottage not to be built next to her house, she'd like a vegetative screen for privacy and to provide cover for birds and other wildlife and she would like as few trees as possible to be cut during construction. She is housebound and would like the hours of construction to be restricted and, since she is ill, she would prefer that there not be any blasting on the property.

Mr. George: Mr. Bresnahan, you said that you want to downsize. What's the size of your existing home right now?

Mr. Bresnahan: I think it's about 4,400 sq. ft.

Mr. George: And, you want to downsize to about?

Mrs. Bresnahan: Between 2,000 and 2,500 sq. ft.

Member of the audience: Between what?

Mr. Salerno: Between 2,000 and 2,500 sq. ft. is the proposed size of their new home.

Mr. Gordon: So, about half the size.

Mr. Newton: I just feel I have to say this and I don't mean anything derogatory to the proponents. I just simply find it offensive to have someone come in and threaten a subdivision with more lots in order to be able to get a variance to do one lot which simply doesn't fit. In any case, the hardship and requirements of the land that are tied to that as you tried to explain are not clear and I think it is simply a threat.

Mr. Salerno: If it will make you feel any better, none of us are threatened by it. We see this quite a bit. Again, I think it's beneficial to the citizens who came out here this evening to hear that because that is a viable option. You and your neighbors should be aware of that. Again, you could end up with something worse. I'm not saying that we're going to approve it or not approve it. I think it is helpful, at least, in explaining what some of the other options are to people that are here. It isn't going to make a big impact, at least speaking for my vote on this, seeing what the proposal is. We're aware that they can do that and we don't find it threatening.

Mr. Newton: It doesn't weigh into your decision, does it?

Mr. Salerno: That doesn't weigh into my decision. I can't speak for the others.

Mrs. Bresnahan: We didn't mean that as a threat. We were told that we needed to put forth the hardship and our hardship is that we have to develop like that in order to stay in the neighborhood for a smaller house. It's our hardship. It's not a threat.

Ms. Eresian: I'm Melanie Eresian. I think it's pretty clear that we're all pretty passionate about this. I think that much is clear. I guess I would like to appeal to the common good part of the clause, clearly the common good. It isn't even a threat. It's a viable possibility and, if denied, it's probably likelihood. I think I would like to say that, for the common good of our neighborhood, and I can't speak for everyone, the granting the variance would be the best thing. That's my statement anyway.

Ms. Buonomo: My name is Paula Buonomo. I live at 42 Colton Lane. My backyard abuts the Bresnahan's backyard. My property has an easement for the water and sewer on it. I would just like to say that we've been neighbors for about 15 years, I guess. I would rather have the Bresnahan's remain here. No one wants to have development in their backyard, but I would rather see the Bresnahan's develop the property than who knows who will come in and develop the property because we had construction in our backyard about 5 years ago. Where there were woods, a few trees had to come down. One of the things that we really tried to preserve for the Bresnahan's and ourselves were the trees for privacy. I know that that will be the most important thing to them, to do this in the right way and leaving as many trees as they can. Joie and I had a conversation about that. She said "I'll be out there to make sure that there's not one more tree taken down than is necessary." I know she'll do that because she and I were out there when we were doing our construction.

Mr. Salerno: It may even be a condition that we impose as some of us suggest be imposed on the granting. I think we're all experienced on the board and aware of what we think the neighbors are trying to accomplish and the petitioners are trying to accomplish.

Is there anybody else that would like to speak after coming this evening?

Ms. Adams: I'm Susan Adams. I live on 49 Surrey Lane. I'm trying to figure out which plot is the one because of the wetlands and Ann Sheehan lives right next to there and then we're on the corner of it?

Mr. Bresnahan: On the 2nd one, second to the right. It's the last one.

Ms. Adams: One of my questions is that it sounds that, if you were to downsize, the integrity of your property is really going to be altered. I know that a lot of homes have gone up in the neighborhood. Our house is 2,000 sq. ft. I'm wondering why you wouldn't just sell and go for a smaller house in the neighborhood?

Mrs. Bresnahan: Well, the houses in the neighborhood that we looked at, for what they want these days, are older and we've got to do more work. We can build on our own land and have something new and something the way we want it.

Ms. Adams: So, you're going to keep both homes?

Mr. Bresnahan: No.

Mrs. Bresnahan: No. Either way, we are selling it in the next 2 years.

Ms. Adams: So, you might be good guys and just do 2, but the bad guys would do 3?

Mrs. Bresnahan: No.

Mr. Grenier: If they decided to sell and move and get a house someplace else, someone else could purchase this property and decide to do a full blown subdivision to recoup their money.

Ms. Adams: If this goes through, when might that be?

Mr. Salerno: What's that, ma'am? When would the construction begin?

Ms. Adams: When would the building and construction begin?

Mr. Salerno: The board takes it under consideration, they vote at the end of the meeting, the vote goes to Mr. Alarie's office, the record is assembled, the decision is filed, there's a 20 day appeal period to Superior Court for anyone aggrieved thereafter to appeal the matter, it's recorded and it's viable for a period of time. If it's not acted upon, it lapses.

Somebody back there had a question?

Mr. Aharonian: We are all concerned about ourselves.

Mr. Salerno: You just need to tell us your name for the records.

Mr. Aharonian: I'm Gerry Aharonian. As I was saying, we're all concerned about ourselves and the Bresnahans are concerned about themselves. With good reason, we all have our concerns and it's difficult to change. Whether they know it or not, I'm sure they do, they are the heart of the neighborhood of Westwood Road, Beaver Drive and Colton Lane. They're right in the center. There are approximately, and I could be wrong by 2 or 3, about 13 abutters or 12 abutters or 11 abutters. We are all concerned not just about the present and the immediate affect of what immediate decisions may be made tonight, or later, when the board meets to discuss these opinions. We're concerned about the future also, in terms of the implications and the ramifications of any changes that are made. I, for example, am concerned, as my wife was saying earlier, about the problem of water and runoff and seepage and with good reason. We had another house that was built just up the street from our house. Ever since then, because of all the landfill that was brought into that lot, we have a sink hole now right in the middle of our drive. It sinks in no matter what I put into it. It keeps sinking because of the alteration of the topography of the area around us. The subterranean water that was running in a certain direction changed directions evidently and is running right under our driveway. So, I am concerned about, as my wife has described earlier, what the impact of the alteration of the heart of the neighborhood will have on all of us in different respects. I'm concerned not just with respect to what I'm referring to regarding the water, but with what other affects the alteration will it have that are truly unknowns. I, myself, if there are to be any changes, hope that they be minimal, whatever that means, with the provision that, if that is agreeable to everyone and I don't know what others are thinking, that whatever the changers are, that they be limited in their scope. Thank you.

Mr. Salerno: Thank you. Is there anybody else who would like to speak, again, if this is something new?

Ms. Christie: I have one quick question. When the Bresnahans sell the big house, there's one driveway with one car going down. How does that impact the new owner? In other words, do you have to widen that driveway for 2 cars? Again, are both of these houses on Surrey Lane? Are new numbers given to the new house? That house will not be on Surrey Lane.

Mr. Salerno: I'm going to let the planner address your question. I guess the question is, does the proposal have a shared driveway or is there going to be new driveway to the proposed house? I'm not certain that they've made that decision yet. Mr. Grenier, could you address that for this lady?

Mr. Grenier: As you know, the existing driveway does come up through the center portion. It could lend itself for a common driveway. It may or may not depending upon the house style that they choose, the configuration and the garages. If it did lend itself and they did decide to put a common driveway in, they would have to grant an easement either for themselves or for the other lot to have common ownership and access through that common driveway. If they did decide to put in a separate driveway, obviously each would have its own.

Ms. Christie: So, is that part of the deed?

Mr. Grenier: Yes. When you sell off of one parcel, you sell them that lot of land with those dimensions and you may grant them rights upon your property or you may grant yourself rights on their property that could be for access for a driveway, for drainage, for sewer or for utilities. It could potentially have a common driveway where it would be deeded for that.

Ms. Christie: So, that would be private. Is that still considered Surrey Lane?

Mr. Grenier: Yes.

Ms. Christie: Then the new owner would have to agree on plowing and upkeep of that road?

Mr. Grenier: Yes.

Ms. Christie: That's not a town responsibility?

Mr. Grenier: No.

Mr. Salerno: It's either going to be an easement with 2 driveways or a common driveway. It's not going to shift the burden of maintenance to the town under the proposal as opposed to the subdivision.

Mr. Grenier: On that, the road would then eventually get deeded to the town. It would be built to town standards and then it would be the town's responsibility.

Ms. Duncan: If you approve Plan A and there are 2 driveways, those driveways could be narrower than the roads of a subdivision for the development? Is that correct?

Mr. Salerno: A subdivision road would have to meet the subdivision requirements as to the cul-de-sac entrance. The driveways, if it's a common driveway, I think it's 18 ft., Ron? If it's their own driveways, they would be on their individual lots.

Ms. Duncan: So, with either scenario, unless they for some reason wanted a very wide driveway, it would be less than what you would find in a subdivision. The other question that I had is, and you may not have an answer for this, if you put the lot and your house where it's shown on Plan A, do you know what the plan is as far as if there is ledge and the impact on water runoff? One thing I'm thinking of is a concern I've heard expressed tonight is that, as much of the trees and vegetation as possible be left and about water. If that in fact does occur, it seems that that will minimize adverse impact of development too. Correct me if I'm wrong on that.

Mr. Bresnahan: Yes, it is correct. We moved there for privacy, for the same reasons everyone likes the neighborhood. We want to stay there. I'm a lifelong resident of Shrewsbury. I grew up less than a quarter of a mile from where the property is now. It is my intention to stay in Shrewsbury. My mother still lives alone in the house that I grew up in, which is on Chase Terrace, a dead-end street next to the Shrewsbury Pizzeria. Our major goal is location and to stay in Shrewsbury. We have the same mission I think everyone mutually has there, preserve the neighborhood and keep it as private as possible. We're not allowing for the ledge input potential. My wife, being most particular, wants every tree that can be saved saved, if that helps.

Mr. Salerno: Mr. Bresnahan, if there was language something to the effect, if we were inclined to grant this variance, and I don't know what the formal language is, that there was a no cut zone here along back bordering property line, say approximately 40 ft. in width here, is that something that would be acceptable to the petitioners? Again, I'm not certain on the language, but a no cut zone along that border?

Mr. Bresnahan: What's a no cut zone?

Mr. Salerno: There would be not cutting, no removal of any of the vegetation.

Ms. Duncan: That would go with the deed?

Mr. Grenier: The width of the lot right now is 114 ft. I'm sure they want a small backyard. With the location of the house, 40 ft. seems a little wide.

Mr. Salerno: Would there be a 40 ft. rear yard setback, Ron?

Mr. Alarie: That would only be a 10 ft. side yard setback along that side of the lot.

Mr. Salerno: That's right. The configuration changes that to a side yard. If there was some manageable no cut zone along that perimeter, not to put you on the spot, but some language to that effect, is that acceptable?

Mr. Grenier: Without knowing the configuration of the house they want and where they would put it, it's kind hard to come up with a hard number. It's awfully hard to give a blank decision on minimized cutting. That's very subjective.

Mr. Salerno: Yes. You haven't sited the house. The width is 114 ft. and there's a minimum 10 ft. setback and that leaves for the majority of the lot to be developed.

Mr. Grenier: Without knowing the footprint and how it's going to sit on the lot, it's difficult.

Mr. Salerno: Okay.

Mrs. Bresnahan: We want to leave as many trees and as much of the woods as possible between the existing house and the new house to keep some value and privacy and everything going down the driveway.

Mr. Salerno: Is there anybody in attendance this evening that wants to comment on this before we conclude?

Mr. Newton: On the newly created lot, we're taking 31 ft. for the frontage, if that's what's being asked. What does that do for the first lot in terms of the frontage on that lot? Does it reduce it beyond what is legal? Does it make it nonconforming or does it fit the 50 ft. requirement?

Mr. Grenier: That's greater than the 50 ft. requirement.

Mr. Newton: I beg your pardon?

Mr. Grenier: It is a conforming lot.

Mr. Newton: No, no. I mean after you take the 31 for the first lot, the other one still conforms?

Mr. Grenier: Correct.

Mr. Newton: Thank you.

Mr. Grenier: If it wasn't, we would have to get a variance for that.

Mr. Salerno: That's under the 3 times rule. They can have 50 ft. of frontage if they have 3 times the necessary square footage of lot area on that lot.

Mr. Newton: I understand that.

Mr. Salerno: So, it would in fact fit under that new rule within the last couple of years.

Mr. Masiello: I'm Jack Masiello of 65 Westwood Road. The house, where it is situated, does not affect us. The only thing that I would like to see is the drainage for the house, for that and for the cul-de-sac because what happens now is all of the water goes down to

the rear of our property and the Christies' property and into that whole area. For 4 or 5 months, we just have wetland and the mosquitoes. All the water comes off of that property. They could try to pick some of that up.

Ms. Krauss: I'm Sharon Krauss of 44 Colton Lane. I live behind Mr. Masiello. I understand from our late neighbor Harry Cutting that something like this was thought of in the past. So, all of the neighbors on the far end of Colton Lane bought a piece of the property that abuts the rear of their lots. That's very irregular. Some of the people are here and some of the people are in Florida. So, there was thought to prevent development. I don't think their idea was to stop neighbors from growing. This new house would not affect me. I'm trying not to be selfish. I empathize with the abutting neighbors. I do think that, if some property and some trees were left, it would sort of appease our neighbors. But, I really don't know how they feel, other than we share a back yard. But, they would be able to stay in town. So, I would rather see, for the common good, the people get their variance so that they can still remain in the neighborhood. It would still save that chunk of property for posterity. There would still be some more big old trees left.

Mr. Salerno: Seeing no further comment, we'll take the matter under advisement, vote at the end of the meeting and notify you of our decision.

Decision

On February 5, 2003 the Zoning Board of Appeals unanimously voted to grant the appeal of John M. Grenier, J. M. Grenier Associates, 787 Hartford Tpke., Shrewsbury, MA, for a variance to the Town of Shrewsbury Zoning Bylaw, Section VII, Subsection B-7, to allow the division of property located at 41 Surrey Lane into two lots with one lot having 31 ft. of frontage.

The subject premises is located to the northerly side of Surrey Lane and is situated between those parcels fronting upon Colton Lane and Westwood Road. In total, the property contains just over 2.5 acres of land. Mr. Grenier represents the owners of this site, Mr. and Mrs. John Bresnahan, who wish to subdivide this property into 2 lots, the larger of which will contain 1.65 acres of land and will be occupied by their existing residence. They plan to construct their new home upon the second parcel (Lot B) which is .88 acres in size. Each plot would contain the requisite land area as prescribed by the bylaw for a "rear lot;" however, Lot B does not have the required 50 ft. of frontage.

Upon review of this appeal, the board found that, due to the size and configuration of the subject premises, the literal application of the applicable provisions of the Zoning Bylaw would impose a substantial hardship to the Bresnahans in their attempt to further develop their property. They noted that this parcel is exceptionally large when compared to other properties within this neighborhood and that each of the proposed lots would still be larger than a vast majority of those properties. It was their opinion that the 31 ft. of frontage provided for Lot B would provide more than adequate access to this parcel, especially where the frontage is along a curvature in the layout of Surrey Lane causing the width of the lot to open quickly as opposed to having just a 50 ft. wide strip leading to its buildable area. They found that the reduction of the required frontage, in this instance, would not seriously depart from either the intent or the purpose of the bylaw and that,

subject to the stipulations set forth below, the construction and occupancy of one additional single family dwelling upon this property would not adversely affect the welfare of either the general public or area residents. It was, therefore, unanimously voted to grant the appeal subject to the following conditions:

1. Neither Lot A nor Lot B as shown on the plan entitled "Proposed Lot Located at Plate 21, Plot 84 Shrewsbury, Massachusetts 01545" shall be further subdivided to create an additional building lot(s) and the deed to each of these parcels shall reference this restriction therein.
2. A 25 ft. minimum wide area of Lot B (as shown on the aforementioned plan) shall remain in its natural state and shall not be disturbed in any manner. This area shall commence at a point 30 ft. in from the northerly side line of Surrey Lane and extend 25 ft. from and parallel with the westerly side lot lines of Lot B having distances of 154.81 ft., 51.92 ft., one having a distance not shown but having an approximate scaled distance of 20 ft., 206.29 ft. until its intersection with the rear lot line of said lot (distance shown as 114.42). The deed to this parcel shall reference this restriction therein.

Vote

| | |
|-------------|-----|
| Mr. Salerno | Yes |
| Mr. George | Yes |
| Mr. Gordon | Yes |
| Ms. Deering | Yes |
| Mr. Rosen | Yes |

PUBLIC HEARING: Marianne Simone Frongillo, 574 Lake Street, Shrewsbury, MA.

PURPOSE: To hear the appeal of Marianne Simone Frongillo, 574 Lake Street, Shrewsbury, MA, for a special permit as required by the Town of Shrewsbury Zoning Bylaw, Section VI, Table I, and a variance to Section VII, Table II, Minimum Side Yard Requirement, Residence B-2 District, to allow the construction of an addition for training and teaching purposes upon property located at 574 Lake Street and to allow its construction 26 ft. from the northerly side lot line of said property. The subject premises is described on the Shrewsbury Assessor's Tax Plate 52 as Plot 82.

PRESENT: Anthony M. Salerno, Chairman, Paul M. George, Martha P. Deering, Melvin P. Gordon, Ronald I Rosen and Ronald S. Alarie, Building Inspector.

Mr. Salerno opened the hearing by reading the advertisement as it appeared in the Worcester Telegram on January 28, 2002 and January 28, 2002.

Mr. Salerno: Counsel, please identify yourself for the record.

Atty. St. Pierre: I'm Attorney Rod St. Pierre. Marianne Frongillo is here with me this evening as well. Basically, the petition before you this evening is the same that was granted by this board a little over a year ago. At that time, we sought a variance and a

special permit to expand the use of the school to include pre-school programs and a variance for the setback because of the dimensions on the side yard. The reason we sought to locate the addition on the right side of the building was that, on the left side of the building, there was all ledge and that was the original location that Marianne where wanted it placed. We came back before the board and the decision was made to place it there. I'll give you some plans that kind of show you where we were last year and what we are looking to do today. The're kind of a combination of the 2.

The original addition that was approved was some 18 ft. off of the side yard and was even with the front of the building, if you will, and extended back roughly about 120 ft. The new addition would then run to the front of the property and straddle the side a little bit, but it would run closer to the front of the building, some 70 ft. in front of what's existing there today.

The reason for the change is that Marianne is now getting ready to start construction and, meeting with the site engineer and meeting with the contractors, they found that there's about a 10 ft. drop-off along that side. The contractor said that it's going to add probably \$75,000 or \$85,000 more to the construction of the addition with fill and retaining walls and so on if you put it there. It's much smarter to move it forward because of the shape, topography and the sever drop-off. It's much better to bring it to the front of the building. There are 5 or 6 parking spaces that would be eliminated which would be moved onto another part of the site. The site consists of about 5 acres of land. So, really, the only difference is that what you see there today is that the building is now some 300 ft. from Lake Street and this would be about 230 ft. back from Lake Street.

The variance part of it has been reduced where it's actually about 26 to 27 ft. to the line. Before, it was an 18 ft. setback that you granted by variance at our last hearing. The footprint's about the same.

The uses are identical to what they were a year ago that this board granted. Marianne has been in this operation at this school since 1986. Again, it's to provide preschool programs. The basic purpose is to segregate the preschoolers, which are ages 3 to 5, to one location versus having to bring them into the general school population. This is a better operation for Marianne. That's basically it. Nothing has changed from where we were before other than this now, the right location to put the addition.

Again, we got away from the ledge and went to another spot. It's just about a 10 ft. drop-off. One of the plans you have kind of shows the topography. I don't have a full blow-up of the topography but it looks to be a drop from 192 down to 180. So, that's at 12 ft. when we move it back. So, it is a severe drop. All of a sudden somebody woke up and said this is the wrong spot because of the drop-off. So, before we went all through that, we came back in.

The variance, again, is for the setback. The special permit is because the school is in a residential zone. To cause any kind of a change, we need to come before this board which we have done a lot in the last 17 years.

Mr. Salerno: So, no construction has taken place on the prior variance that was granted?

Atty. St. Pierre: Nothing yet. They were ready to get going and that's when the contractor with the site engineer really impressed upon Marianne that that was the wrong spot.

Mr. George: Rod, coming into the driveway, you would be facing the new addition?

Atty. St. Pierre: Yes. The new addition will be on the same elevation as the existing building. The height of the building will be the same. It would be brought forward 70 ft. and some 26 to 27 ft. off of the side lot line. It would eliminate about 5 or 6 parking spaces which would then be reconfigured to the back part of the property or the side part. The additional parking goes up to a second level up there. It's all ledge there. You have to kind of work around it.

Mr. Rosen: The hardship is created by the topography?

Atty. St. Pierre: Absolutely, yes. It's almost a 12 ft. drop.

Mr. Salerno: You want to substitute this for what was granted?

Atty. St. Pierre: Correct.

Mr. Salerno: So, the one that was granted will have no affect?

Atty. St. Pierre: Basically, we're on an extension on that with a letter that we submitted last September. We had a meeting back in September of 2001. I'm not sure when the decision was filed.

Mr. Gordon: We gave him a 6 month extension.

Mr. Alarie: Back in September of 2002, you were granted a 6 month extension on that original variance.

Atty. St. Pierre: So, that's basically going to lapse in another month or 2 if it hasn't already.

Ms. Deering: So, the plan that we're looking at is the one in yellow, not the one in pink?

Atty. St. Pierre: What was in pink is what we were proposing before yesterday. I wanted to show the yellow as the new addition and then the old and how it related to what was before the board before. The use and everything else is identical. It's a total of 100 ft. along the right side. When it comes to that jog at the existing building, it extends about 70 ft. in front of the building.

Mr. Gordon: This would be classrooms?

Ms. Frongillo: There would be 1 classroom and more gymnasium space. I have a café right now, a small one, and it would also have a pro shop and a seating area.

Mr. Gordon: So, there would be a little seating area where the parents are?

Atty. St. Pierre: A little viewing area, right.

Ms. Frongillo: That will be increased.

Mr. Rosen: Are you definitely going to let the first variance lapse?

Atty. St. Pierre: Yes.

Mr. Rosen: Okay.

Mr. Salerno: Just so that we know what we're considering, in other words, we're considering this request knowing, or putting some conditions on it, that the first one is going to lapse?

Atty. St. Pierre: If the decision is granted to allow this second one, yes.

Mr. Rosen: The troubling part is to have 2 live variances.

Atty. St. Pierre: No, I would represent to this board that that will not happen.

Mr. Salerno: It just makes it easier for us to consider this appeal.

Atty. St. Pierre: Absolutely, that's fine.

Mr. Salerno: Conceptually, you don't want us to consider them both?

Atty. St. Pierre: No.

Mr. Alarie: Well, the board could, in granting the special permit, limit the construction to this specific proposal.

Atty. St. Pierre: Fine.

Mr. Salerno: That's my question. Can we do that given that we've granted the variance that is still alive?

Mr. Alarie: I think it would be wise to incorporate into the decision the extinguishing of the variance that was granted in September of 2001.

Atty. St. Pierre: I'm in agreement with that. We can do that by agreement, counsel, with the petitioner.

Mr. Alarie: Whether he agrees or not, I think the board should put that stipulation into the decision.

Atty. St. Pierre: We agree to that. Nothing has basically changed other than the location. We're still about 250 ft. from the nearest home. They're the same arguments that we presented over a year ago.

Mr. Salerno: Is there anybody in attendance this evening that wants to comment on this petition? Seeing no further comment, we'll take the matter under advisement, vote at the end of the meeting and notify you of our decision.

Decision

On February 5, 2003 the Zoning Board of Appeals unanimously voted to grant the appeal of Marianne Simone Frongillo, 574 Lake Street, Shrewsbury, MA, for a special permit as required by the Town of Shrewsbury Zoning Bylaw, Section VI, Table I, and a variance to Section VII, Table II, Minimum Side Yard Requirement, Residence B-2 District, to allow the construction of an addition for training and teaching purposes upon property located at 574 Lake Street and to allow its construction 26 ft. from the northerly side lot line of said property.

Upon review of this appeal, the board noted that the appellant was granted special permits and/or variances in August of 1999 and again in September of 2001 to allow the expansion of her gymnastic training/teaching facility situated upon the subject premises. The first proposal was to add a two story addition to the easterly side of her school and the latter was to add a single story, 5,400 sq. ft. extension to its westerly exposure. Neither of those proposals were developed due site constraints created by either ledge or topographical conditions. Ms. Frongillo now proposes to extend a portion of the front of this approximately 70 ft. adding approximately 4,790 sq. ft. to its first floor area. The front right corner of the addition would project about 4 ft. into the minimum side yard.

It was also noted that the size of the proposed addition has been reduced with each presentation to the board and that the side yard setback has increased from 18 ft. to 26 ft. with the current plan. The proposed use of the additional floor space has remained consistent with each appeal. The board found that their basis for the granting of the requested relief on each of the previous two occasions is applicable to this hearing and, therefore, voted to incorporate those decisions herein by reference. It was their opinion that, since the scope of the proposed expansion has diminished over time and is more in compliance with the applicable terms of the bylaw, the granting of this appeal would not materially depart from the intent or the purpose of the bylaw nor adversely affect the welfare of either the general public or area residents. It was, therefore, unanimously voted to grant the special permit and the variance subject to the stipulation the rights authorized in their decision of September 26, 2001 shall become null and void upon the filing of this decision with the office of the Shrewsbury Town Clerk.

Vote

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| Mr. Salerno | Yes |
| Mr. George | Yes |
| Mr. Gordon | Yes |
| Ms. Deering | Yes |
| Mr. Rosen | Yes |

PUBLIC HEARING: Paul McNamara, 900 Boston Turnpike, Shrewsbury, MA.

PURPOSE: To hear the appeal of Paul McNamara, 900 Boston Tpke., Shrewsbury, MA, for a variance to the Town of Shrewsbury Zoning Bylaw, Section VI, Table I, and a special permit as required by Section IV, Subsection B, to allow the retail sale of building materials and related merchandise upon property located at 900 Boston Tpke. and to allow the removal and replacement of an existing nonconforming sign situated upon said property. The subject premises is described on the Shrewsbury Assessor's Tax Plate 36 as Plot 31-2.

PRESENT: Anthony M. Salerno, Chairman, Paul M. George, Martha P. Deering, Melvin P. Gordon, Bridget M. Murphy and Ronald S. Alarie, Building Inspector.

Mr. Salerno opened the hearing by reading the advertisement as it appeared in the Worcester Telegram on January 28, 2002 and January 28, 2002.

Mr. Rosen: I would like to recuse myself from this hearing.

Mr. Salerno: Okay. Let me read it into the record so that you can be recused.

Please identify yourself for the audio record and make your presentation.

Mr. McNamara: I'm Paul McNamara. I'm the owner of the property at 900 Boston Turnpike. The presentation will be made by Mr. Brad Marcus.

Mr. Marcus: I'm Brad Marcus, the owner of Boston Tile Company. Our goal is to purchase the building and relocate my business from where it is now at 512 Boston Turnpike. The nature of our business is such that I require a large part of the building, which will be about 75 % of the total square footage of the building, as showroom space. In a Limited Industrial Zone, this doesn't allow that. The nature of the business these days is that more often the homeowners participate in the purchases. So, we've crossed that line from wholesale to retail. I really need the building to be reclassified as Commercial in order to do a retail business there. I will be subletting 5,000 sq. ft. of the property to Boston Kitchens who does kitchen cabinets much in the same way that I do with a showroom. That's the reason that I've asked for a variance.

Also, I just wanted to confirm that I can place a pole sign similar to my neighbor, it's identified as the Foley sign. I have a picture of it larger than what you folks have. The existing sign is appropriately placed. I just want to place a new sign where it is. I just had no knowledge if that was grandfathered or if I modified that if it was required or anything special. So, I have that on the agenda as well. Do you have any questions on that part of it?

Mr. Salerno: Do you have any plans or any graphs you want to show?

Mr. Marcus: I want to bring up parking from everything I can tell from the amount of the square footage of the showroom to the existing. I also wanted to get the board's opinion as to whether I would be permitted to pave a small part which is the front of the building adjacent or parallel to Route 9. So, I'm just going to let this gentleman on my left, Mr. Rob Truax, a civil engineer with GLM make that presentation.

Mr. Truax: I'll just give you a quick overview of the site. The building is in red, it's shaded. The existing paving is the gray area which I also shaded. What we would like to do is we have ample parking for the showroom. We've calculated it to be 250 sq. ft. per space required for the showroom. I'm not really 100 % sure if it wouldn't be 350 because he's almost really like a rug company would be in the sense that he's going to have displays taking up most of his showroom. We've done it on a conservative method using 250 sq. ft. for the showroom and then he has approximately 3,700 sq. ft. of warehouse. We show that the required parking would be 51 spaces. We can show that 56 are on the site with the addition of 8 of them in the front. Of those 8, 3 of them are going to be handicap spaces. On the front of the site right now there really is no handicap parking on the site. The site is just basically paved. What we are going to do is this area that's shaded in dark does not exist right now. That area is all grass and trees. What we would like to do is take the trees down and provide parking along front of the building. The front of the building is going to get a new façade. Right now it's just a straight up. I think he gave you some photos of that. That's all going to get changed. There's going to be a new face. We would like to put a walkway in the front and put in some parking so that when the clients come in they have a nice view of the front of the building. This layout that we've done shows the parking conforming to the setback from the street right-of-way which would require a 15 ft. buffer and your regulations for landscaping. Basically, we just did these drawings in the past 2 weeks, week and a half. After talking to Brad, this was one scheme that I showed him which gives him 5 spaces across the front of the building. Of those 5, 3 of them are going to be handicapped. Since that time I actually did a second sketch, this one here, which would give him 10 spaces if we went perpendicular and provided a 2-way isle, such as 24 ft. We wouldn't have a 15 ft. landscape buffer any more; we'd be down to 9 ft., which I believe would require a 2nd variance from the board. We have not filed or asked for that at this point in time. We would like to get your opinion on it. This is something that has come up in the last week, since we've done the filing, with things we've come across. This would be the preferred look so that he can get his handicapped spaces in front of the building with a new walkway and get additional parking for the public when they are going to the site. Obviously, the landscaped plot will be smaller than the one we had.

Mr. George: Is that the proposal? Is that the proposal right now?

Mr. Truax: We haven't formally requested the variance on the landscape buffer. I don't know if we can request it this evening because I haven't done it in writing. So, I think that has to be done. We would like to show it to you and come back with that. If you told us that was something you don't allow or wouldn't allow then we wouldn't bother filing for the variance. So, we're really just looking to get your informal input on that and then come back for the second time. Right now we're just here for the use and for the sign.

Mr. Salerno: All right. Let's just stick with what you've got before us that's legally advertised. It would probably be improper for us to tell you what we would do on that without it being before us and allowing people in opposition speak and all of the other factors that the board members would have to weigh to make a determination. I know that you're looking for some kind of an indication.

Mr. Gordon: Have you shown it to your big abutter?

Mr. Truax: Yes, we have.

Mr. Salerno: What did you call him?

Mr. Gordon: Well, he has the biggest piece of land?

Mr. Truax: We've had ample time in the hallway to have a discussion about the plans with the big abutter.

Mr. Gordon: The big abutter. I meant in the form of land ownership. I have a couple of questions, if I may? Does this trigger a site plan? Do they have to go through all of the parking?

Mr. Alarie: If they had to expand the parking to accommodate this new use, yes. But, I would be inclined to say that the parking requirement would be for the bulk display items. That's more in tune with what we had designed, the 1 per 300 sq. ft. as opposed to the 250. So, in that instance I think, and not seeing the full site plan and how they have the spaces designated, it would be difficult to say. I think the present configuration already complies to that retail activity.

Mr. Gordon: Is this parking lot going to be lit? Firematic didn't have a lit parking lot, I don't believe, because they didn't need one.

Mr. Marcus: We certainly hope to have it lit, yes.

Mr. Truax: He was hoping to put building mounted lights to light the parking lot.

Mr. Gordon: Just because I often speak too much, I would not be inclined to two-way in front. I would be inclined to one-way in front if you had the parking in front. I would also be inclined to ask if you have rights to the common driveway at Park Nine?

Mr. Marcus: My understanding is that I do. We just had that discussion in the hallway.

Mr. Gordon: If you do have that, what I would ask is that the driveway on private Route 9 be one-way in only and that that be also one-way across the front and that you use the Park Nine common driveway as your way out because I think it gives you better site distance.

Mr. Alarie: But Mr. Gordon, is there not a deceleration lane up to the driveway to Park Nine West? I could see if you preclude cars exiting the existing driveway, but it might not be a bad idea to allow them to enter...

Mr. Gordon: Oh, I have no problem with that enter and exit.

Mr. Alarie: Okay.

Mr. Gordon: I have no problem with that except for the front. I would like to see the front one-way.

Mr. Truax: As entry only?

Mr. Gordon: As entry only and that the parking in the front just be one-way going east. It deters people from going out there. I just think that you probably have adequate site distance. Coming up over the rise as you get to Fiore's and now with Foley there and cars coming in and out I just think, really, not adding a drive, and I consider going in only not adding a drive, would cut down on the confusion where there's a deceleration lane there into the common drive where you have better site distance. I would prefer to see that.

Is all of your storage going to be inside?

Mr. Marcus: Yes.

Mr. Gordon: Okay, so there's nothing going outside?

Ms. Deering: So, everything that's currently outside is going to be cleared because there are piles and piles of trash?

Mr. Marcus: Part of the conditions of the sale is that the lot be cleared.

Mr. Gordon: And, on the sign. Is the sign going to be the same size as the current 900 sign?

Mr. Marcus: No.

Mr. George: How large is it going to be?

Mr. Marcus: Whatever is permitted, which I understand is 200 sq. ft. for the face.

Mr. Gordon: How much larger is that, Ron, than what's there?

Mr. Alarie: I can't visualize the one that's there.

Ms. Deering: It's very small.

Mr. Gordon: It's right there.

Mr. Marcus: That's the Foley sign, which is the neighbor's sign. So, I just assume that's in compliance without knowing.

Mr. Gordon: Is that 200?

Mr. Alarie: That's much less...

Mr. Gordon: That's much larger than 200 sq. ft.

Mr. Alarie: No, that's much less than 200 sq. ft.

Mr. Gordon: That's much less?

Mr. Marcus: Ten by twenty would be the size that we want.

Mr. Salerno: You might want to check with him on what he paid for that sign too.

Mr. Marcus: Oh, yes. My present costs are \$800,000 for improvements on the building. We're going to really make it look like a diamond.

Mr. Salerno: Do you want to submit that?

Mr. Marcus: That's just a beginning sketch of the drawings.

Ms. Deering: One of the things that you said was that you are going to sublease some of the space to a kitchen cabinet place?

Mr. Marcus: Yes.

Ms. Deering: Is that going to be physically divided from your space or simply within your space?

Mr. Marcus: No, it will be physically divided. We will alarm it and secure it.

Mr. Salerno: It will have a common wall with your property?

Mr. Marcus: Yes. We do that at one of our other locations and it just works beautifully from a consumer's standpoint to see both aspects. But, it is secured at night.

Ms. Deering: So, would you be split, well from the looks of it, it's right down the middle in the front, but would they actually have the full half of the building?

Mr. Marcus: No, they would have approximately 30 ft. frontage and I would have 65 ft. of frontage.

Ms. Deering: How about in back?

Mr. Marcus: They've offered anywhere from 3,000 to 5,000 feet, as much as I want to give out. Most likely it will be closer to 5,000, which would be a straight line going back.

Mr. Alarie: Mr. Chairman, one question on the parking in front. I didn't see the first plan. Is that parallel parking or is it diagonal parking?

Mr. Salerno: Diagonal parking.

Mr. Marcus: The 15 ft. buffer is diagonal parking. That would be in keeping with the one-way. The perpendicular would provide more parking in front of the building. You could probably still keep the exit. I was just thinking about what you had said. I'm thinking that the two-way traffic in front of the building is not a bad idea. However, you could still deter them from exiting onto Route 9. But, the only thing is that if you did have the 24 ft. it would allow people who came in from the other road, if they made a run down that wrong side of the building and they hit the one-way they might back up, to go around the building and go back out. Maybe if we had the 24 ft. and a two-way in front, I don't think that would necessarily be an issue because we could put a sign there saying no access, left turn only.

Mr. Gordon: A lot of people can't read.

Mr. Marcus: Yes, they're going to drive down there. If we have it one-way, those people will. That was my only thought on that.

Mr. Gordon: Just as an aside, I know that we are examining zoning in this town. I do believe that that area in town is being considered more Commercial Business, that parcel. If you look at it, when it does come up Commercial Business, we're big on vegetative buffering. So, I'm big on vegetative buffering. I don't like a narrow strip. I think it adds to the mystery and you'll have signage that'll get people in. Green is nice.

Mr. Salerno: That was my concern on the part now that you have your sign currently located on. There are a number of sizable trees there. In your proposal, how far out do you plan to cut between Route 9 and the road?

Mr. Marcus: I'll just show the existing. This is the westbound side where there's already a tree buffer between the properties on that side of the property.

Mr. Salerno: The arborvitaes that separate you and Foley's?

Mr. Marcus: Right. On the eastbound side there's another tree belt, actually a dual tree belt system that was given at the time that that road went in. It was some trading off as I understand it. The immediate trees that are in front of the window area, those I would remove. So, the trees that can be preserved would be on the side.

Mr. Gordon: Are you going to add some?

Mr. Marcus: My wife is a landscape designer, so...

Mr. Gordon: Would she be willing to add some?

Mr. Marcus: The westbound front area that's closest to Foley will be a planting area. We haven't talked about that 15 ft. because I haven't known what's really needed. But, for the visibility from my building to view the façade, I really do need to take number of those trees down.

Mr. Alarie: I would just point out that in the zoning proposal that 15 ft. front yard landscaping will grow to 20 ft., so I think, reducing what you can comply with now is

going to conflict with our overall plan for the change in zoning along that Route 9 corridor.

Mr. George: What is your reason for cutting those trees down in front? It's mostly all top growth on those trees anyway, so would it really be taking away from the front of the building?

Mr. Marcus: It is, yes. It's a condition, actually, in my Purchase and Sales Agreement. My understanding is that there's a right to do that anyway, as it exists now. But, for visibility of the building, location is everything on visibility, which is the whole package.

Mr. Salerno: So, what's depicted here along the front of it is the current building.

Mr. Marcus: Yes.

Mr. Salerno: Your plan is to, Mr. George said most of those trees are top growth and provide the leaf blanket, take that down so that the façade is exposed.

Mr. Marcus: That's correct.

Mr. Salerno: What is already on the side you will leave?

Mr. Marcus: That's right.

Mr. Gordon: And, add to.

Mr. Salerno: Where can he add?

Mr. Gordon: Next to Foley.

Mr. Marcus: There is a pocket of land as you drive in. There's an area for appropriate planting.

Mr. Salerno: What's the size of that?

Mr. Marcus: I'd estimate 8 ft. x 20 ft. But, it's my goal to improve the property and make it the best and stay in Shrewsbury with our business. So, I hope that you would consider the variance change and also our ability to conduct business.

Mr. Salerno: Is there anybody in attendance this evening that wants to comment on this petition? Seeing no further comment, we'll take the matter under advisement, vote at the end of the meeting and notify you of our decision.

Decision

On February 5, 2003 the Zoning Board of Appeals unanimously voted to grant the appeal of Paul McNamara, 900 Boston Tpke., Shrewsbury, MA, for a variance to the Town of Shrewsbury Zoning Bylaw, Section VI, Table I, and a special permit as required by Section IV, Subsection B, to allow the retail sale of building materials and related

merchandise upon property located at 900 Boston Tpke. and to allow the removal and replacement of an existing nonconforming sign situated upon said property.

The board reviewed the appellant's proposal to utilize the building situated upon the subject premises, which was formerly used for manufacturing purposes, for the display and sale of flooring tiles, kitchen cabinets and related products and found that such use would not depart from intent of the bylaw. It was noted that, in conjunction with recent a recent master plan study of the town, this portion of the Route 9 corridor should be devoted to commercial activities and, to that end, an upcoming special town meeting will be asked to rezone this area to "Commercial Business."

They found that the existing building does not lend itself to many industrial uses and that the imposition of the literal requirements of the Zoning Bylaw, in this instance, would impose a substantial hardship to its owner. It was their opinion that the display and sale of the aforementioned building products would not conflict with the general character of other properties along both the eastbound and westbound sides of this segment of Route 9 which is populated with many commercial business including retail sales, a restaurant and automotive related sales and service lots. They, therefore, unanimously voted to grant the appeal subject to the following conditions and stipulations:

1. The existing driveway located to the westerly side of the site shall be used only for entering the premises and it shall be so posted with a "Do Not Exit" sign.
- 2 A grassed/landscaped area, which shall be a minimum of 20 ft. in width, shall be maintained, except for driveway openings, across the full frontage of the property.
- 3 The traffic movement across the proposed driveway/parking area located to the front of the building shall be allowed only in an east to west direction and shall be so posted with signs installed at both ends of said driveway.
- 4 The existing sign located adjacent to the sideline of Route 9 may be replaced and enlarged. The maximum signage permitted upon this structure shall not exceed 100 sq. ft.
5. There shall be no exterior storage of any materials upon the premises except in a completely enclosed area.

Vote

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| Mr. Salerno | Yes |
| Mr. George | Yes |
| Mr. Gordon | Yes |
| Ms. Deering | Yes |
| Ms. Murphy | Yes |